



- a. Aquatic Life Habitat: Modified Warmwater Habitat (channel modification)
  - b. Water Supply: Agricultural and Industrial Water Supply
  - c. Recreation: Secondary Contact
3. The NPDES permit expired on January 31, 2012, with a timely renewal application submitted.
  4. The WWTP, an advanced treatment facility with an average design flow of 2.4 million gallons per day, consists of wet stream processes including bar screening, influent pumping, grit removal, primary sedimentation, activated sludge (contact stabilization), secondary clarification, trickling filter-plastic media, biological nitrification, phosphorus removal by chemical addition, alum addition, final clarification, and ultraviolet ("UV") disinfection. Solid stream processes are aerobic digestion, mechanical dewatering and composting, and disposal by land application at agronomic rates. The sewage collection system is 100% separate sanitary sewers.
  5. Respondent administers a 1984, Ohio EPA approved publicly owned treatment works pretreatment program as defined in OAC Chapter 3745-3.
  6. Respondent's pretreatment program has one significant industrial user, Bunge North America (East) L.L.C. ("Bunge"), a manufacturer of soy based food, meat and nutritional products, located at 605 Goodrich Rd, Bellevue.<sup>1</sup>

### Inspections

7. During a November 2, 2009 permit compliance inspection, memorialized in a November 24, 2009 letter, Ohio EPA staff noted that during the past disinfection season there were three instances where the final effluent fecal coliform results were too numerous to count. Respondent was unable to determine any specific cause of the violations and indicated that the UV system was operating when the violations occurred. During the last several inspections it was noted that the UV system required a significant amount of operator attention and maintenance in order to stay operational, an indication that the UV system is nearing the end of its useful life and that its replacement should be anticipated.
8. During a September 22, 2010 permit compliance inspection, memorialized in a December 8, 2010 letter, Ohio EPA staff notified Respondent that the UV system required a significant amount of operator attention and maintenance in order to stay operational. As there have been continued maintenance and operation problems with the UV system during the years, it was recommended that Respondent evaluate the system and determine if replacement was required. The letter also referenced August, 2010 violations of the fecal coliform effluent limits.

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<sup>1</sup> Bunge purchased the assets of the facility on April 30, 2012 from Solae LLC.

9. During a December 12, 2011 permit compliance inspection, memorialized in a December 30, 2011 letter, Ohio EPA staff notified Respondent that it was in significant noncompliance for violation of fecal coliform effluent limits from May to October, 2011. Respondent indicated that problems remained with the UV system and that the system required a significant amount of operator attention and maintenance in order to stay operational. The letter noted that compliance with the fecal coliform effluent limits has not been achieved by the replacement of circuit boards and weekly cleaning of the bulb sleeves.
10. The December 30, 2011 letter noted that the WWTP is in significant noncompliance for violations of Total Dissolved Solids ("TDS") limits from June to September, 2011. Ohio EPA suggested that TDS could be the cause of the Chronic Toxicity limit violations for the past few years and that Respondent should look into possible sources of the TDS and see if the sources can be reduced or eliminated. Potential sources to evaluate included industrial users, the WWTP and chemicals used for phosphorus removal.
11. During an April 25, 2012 pretreatment compliance inspection, memorialized in a May 30, 2012 letter, Ohio EPA staff informed Respondent that:
  - a. Documents regarding sampling data results and documentation of inspection and enforcement activities for Bunge and A. Shulman, Inc. were not accessible for review;
  - b. Compliance inspections and compliance sampling of Bunge and A. Shulman, Inc., were not conducted in 2011, a violation of the monitoring program portion of Respondent's approved pretreatment program, which states that sampling and compliance inspections of all industrial users shall be conducted at least once per year; and
  - c. Despite the sending of email notices of violation, providing compliance assistance to operators of Bunge's pretreatment system and the holding of a meeting with Bunge management to attempt to improve compliance, Respondent still occasionally receives from Bunge slug loads of wastewater with high phosphorus concentrations which causes the WWTP to exceed its effluent limits for that parameter.

#### **Effluent Limit Violations**

12. For the period of January, 2010 to June, 2012, the WWTP experienced the following effluent limit violations:

City of Bellevue  
 Director's Final Findings and Orders  
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Reporting Period	Parameter	Limit Type	Limit	Reported Value	Violation Date
January 2010	Phosphorus, Total (P)	30D Conc	1.0	1.15	1/1/2010
February 2010	Phosphorus, Total (P)	30D Conc	1.0	1.08286	2/1/2010
August 2010	Fecal Coliform	30D Conc	1000	1062.85	8/1/2010
August 2010	Fecal Coliform	7D Conc	2000	2533.39	8/8/2010
September 2010	Phosphorus, Total (P)	30D Conc	1.0	2.025	9/1/2010
September 2010	Phosphorus, Total (P)	7D Conc	1.5	5.	9/1/2010
September 2010	Phosphorus, Total (P)	30D Qty	9.1	9.35747	9/1/2010
September 2010	Phosphorus, Total (P)	7D Qty	13.6	22.1422	9/1/2010
September 2010	Chronic Toxicity, Ceri	30D Conc	1.0	1.41	9/1/2010
January 2011	Residue, Total Dissolv	30D Conc	1505	1880.	1/1/2011
February 2011	Residue, Total Dissolv	30D Conc	1505	2010.	2/1/2011
March 2011	Mercury, Total (Low Le	30D Qty	0.0000	.00006	3/1/2011
June 2011	Residue, Total Dissolv	30D Conc	1505	1660.	6/1/2011
July 2011	Residue, Total Dissolv	30D Conc	1505	2030.	7/1/2011
July 2011	Fecal Coliform	30D Conc	1000	3744.53	7/1/2011
July 2011	Fecal Coliform	7D Conc	2000	3114.53	7/1/2011
July 2011	Fecal Coliform	7D Conc	2000	3735.03	7/8/2011
July 2011	Fecal Coliform	7D Conc	2000	17465.7	7/22/2011
July 2011	Dissolved Oxygen	1D Conc	5.0	3.9	7/23/2011
July 2011	Dissolved Oxygen	1D Conc	5.0	3.6	7/25/2011
July 2011	Dissolved Oxygen	1D Conc	5.0	4.9	7/26/2011
August 2011	Fecal Coliform	7D Conc	2000	2567.69	8/1/2011
August 2011	Residue, Total Dissolv	30D Conc	1505	1940.	8/1/2011
August 2011	Mercury, Total (Low Le	30D Conc	5.4	6.83	8/1/2011
August 2011	Fecal Coliform	7D Conc	2000	10052.6	8/15/2011
August 2011	Fecal Coliform	7D Conc	2000	6814.73	8/22/2011
September 2011	Chronic Toxicity, Ceri	30D Conc	1.0	2.82	9/1/2011
September 2011	Residue, Total Dissolv	30D Conc	1505	1700.	9/1/2011
October 2011	Residue, Total Dissolv	30D Conc	1505	1860.	10/1/2011
November 2011	Phosphorus, Total (P)	30D Conc	1.0	1.55385	11/1/2011
November 2011	Phosphorus, Total (P)	7D Conc	1.5	2.6	11/1/2011
November 2011	Phosphorus, Total (P)	7D Conc	1.5	1.6	11/8/2011
December 2011	Phosphorus, Total (P)	30D Conc	1.0	4.14667	12/1/2011
December 2011	Phosphorus, Total (P)	30D Qty	9.1	25.0564	12/1/2011
December 2011	Phosphorus, Total (P)	7D Conc	1.5	6.43333	12/15/2011
December 2011	Phosphorus, Total (P)	7D Qty	13.6	43.7987	12/15/2011
December 2011	Phosphorus, Total (P)	7D Conc	1.5	4.51429	12/22/2011
December 2011	Phosphorus, Total (P)	7D Qty	13.6	25.5817	12/22/2011
January 2012	Phosphorus, Total (P)	30D Conc	1.0	1.24338	1/1/2012
January 2012	Residue, Total Dissolv	30D Conc	1505	1550.	1/1/2012
January 2012	Phosphorus, Total (P)	7D Conc	1.5	2.1	1/15/2012
February 2012	Residue, Total Dissolv	30D Conc	1505	1640.	2/1/2012
March 2012	Residue, Total Dissolv	30D Conc	1505	1620.	3/1/2012
April 2012	Residue, Total Dissolv	30D Conc	1505	1850.	4/1/2012
May 2012	Residue, Total Dissolv	30D Conc	1505	1800.	5/1/2012
June 2012	Residue, Total Dissolv	30D Conc	1505	2090.	6/1/2012
June 2012	Fecal Coliform in Slud	1D Conc	200000	2395714	6/7/2012
June 2012	Fecal Coliform	7D Conc	2000	4850.	6/8/2012

### **NPDES Permit Compliance Schedule Violations**

13. The NPDES permit (Part I, C - *Schedule of Compliance*, D.) contained a compliance schedule requiring evaluation of the UV system and if needed to achieve compliance with the new 2012 E Coli effluent limits, the submission of a permit to install for upgrades by January 12, 2012.
14. In order to meet the new E Coli effluent limits, upgrades are required for the UV system, triggering the January 12, 2012 submittal date of a permit to install.
15. A permit to install application for upgrades to the UV system has not been submitted.

### **Pretreatment Program**

16. Based on its inspection and review of records, Ohio EPA determined that Respondent's implementation of its approved pretreatment program has been, and continues to be, unsatisfactory.

### **Relevant Ohio Water Pollution Control Laws**

17. ORC § 6111.04(A) prohibits any person from causing pollution or causing any sewage, industrial waste or other waste to be placed in any location where they cause pollution to waters of the state, except if such discharges occur in accordance with a valid, unexpired NPDES permit issued by the Director or if an application for renewal of such permit is pending.
18. ORC § 6111.04(C) prohibits any person to whom an NPDES permit has been issued from placing or discharging or causing to be placed or discharged in any waters of state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit without first receiving a permit from the Director to do so.
19. ORC § 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by ORC §§ 6111.01 to 6111.08, or violating any order, rule, or term or condition of a permit issued by the Director pursuant to those sections. Each day of violation represents a separate violation.
20. ORC § 6111.09 provides that any person who violates ORC § 6111.07 shall pay a civil penalty of not more than ten thousand dollars per day of violations.

### **Finding of Violations**

21. Premised on the above findings, Respondent has and continues to violate ORC § 6111.07(A).

**ORC § 6111.03(H) Provisions**

22. ORC § 6111.03(H) provides in relevant part that the Director may:

Issue, modify, or revoke orders to prevent, control, or abate water pollution by such means as the following:

- (1) Prohibiting or abating discharges of sewage, industrial waste, or other wastes into the waters of the state;
- (2) Requiring the construction of new disposal systems or any parts thereof, or the modification, extension, or alteration of existing disposal systems or any parts thereof; [and]

\* \* \*

- (4) Requiring compliance with any standard or rule adopted under sections 6111.01 to 6111.05 of the Revised Code or term or condition of a permit.

23. ORC § 6111.03(H) requires that the Director in the issuance of Orders under the Division give consideration to, and base the determination on, evidence relating to the technical feasibility and economic reasonableness of complying with those orders and to evidence relating to conditions calculated to result from compliance with those orders, and their relation to benefits to the people of the state to be derived from such compliance in accomplishing the purposes of the Chapter.

24. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purpose of ORC Chapter 6111.

25. ORC § 6111.60 requires that in the enforcement of the Federal Water Pollution Control Act as applied to publicly owned sewerage systems, the Director, to the extent allowable under that Act and regulations adopted thereunder, shall consider, to the extent applicable, specified criteria.

26. In the issuance of these Orders the Director has considered the applicable ORC § 6111.60 criteria.

27. These Orders do not modify or alter NPDES permit number 2PD00037\*KD. The purpose of these Orders is to correct Respondent's noncompliance with the Ohio Water Pollution Control Laws and said permit.

28. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the permit to install and plan approval requirements of ORC §§ 6111.44(A) and 6111.45 and Ohio Administrative Code Chapter 3745-42.

**V. ORDERS**  
**Pretreatment Program**

1. Respondent shall achieve compliance with its currently-effective NPDES permit number 2PD00037\*KD, and any successor permit, including, but not limited to, the approved pretreatment program requirements set forth therein to prevent the introduction of pollutants which interfere with the operation of the WWTP, as expeditiously as practicable, but not later than the following schedule:
- a. As soon as possible but no later than sixty (60) days after the effective date of these Orders, Respondent shall issue to Bunge and any other appropriate entities involved in the operation of the Bellevue facility,<sup>2</sup> effective court enforceable, administrative compliance orders which address non-compliance with Respondent's pretreatment standard for phosphorus.
    - i. The administrative compliance orders shall include: a compliance schedule that contains milestone dates requiring Bunge to achieve compliance (or maintain compliance) with all applicable federal, state, and Respondent's local pretreatment standards and requirements within the shortest possible period of time, but not later than eighteen (18) months after the effective date of these Orders, and a mechanism to escalate enforcement should Bunge fail to meet the schedules or maintain compliance. The orders shall include a mechanism for stipulated penalties for any noncompliance that occurs after the schedule provided therein; and
    - ii. At a minimum the compliance schedule shall require Bunge to do the following:
      - a. As soon as possible but no later than ninety (90) days after the effective date of these Orders, develop, implement, and submit to Respondent, a slug discharge control plan to prevent the introduction of pollutants into the WWTP which interfere with its operation, pass through the plant, or are incompatible with the plant;

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<sup>2</sup> As used in Order No. 1, the term "Bunge" shall include Bunge and any other appropriate entities involved in the operation of the Bellevue facility.

- b. As soon as possible but not later than ninety (90) days after the effective date of these Orders, hire a consulting engineer to thoroughly evaluate the Bunge facility to identify all wastewater streams at the facility. Each wastewater stream shall be sampled to determine the concentrations of pollutants and if such pollutants are directed through the Bunge facility's wastewater pretreatment system for treatment prior to discharge to the WWTP;
  - c. As soon as possible but not later than six (6) months after the effective date of these Orders, the Bunge facility's wastewater pretreatment system shall be evaluated by a consulting engineer to determine what upgrades are needed in order to achieve compliance with all applicable federal, state, and Respondent's local pretreatment standards and requirements;
  - d. As soon as possible but not later than seven (7) months after the effective date of these Orders, submit a report to Respondent summarizing the results of the evaluation of the Bunge facility's wastewater streams and wastewater pretreatment system. The report shall include recommendations for needed upgrades to the wastewater pretreatment system and operational procedures that can be implemented to improve its operation. The evaluation should include a schedule to complete construction of any needed upgrades to the wastewater pretreatment system as soon as possible but no later than eighteen (18) months after the effective date of these Orders [Director's Final Findings and Orders]; and
  - e. As soon as possible, but no later than thirty (30) days after the effective date of these Orders, hire a certified operator to oversee the technical operation of the wastewater pretreatment system. At a minimum the operator of record shall have a valid Class I certification as defined in OAC Chapter 3745-7.
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- b. As soon as possible but no later than six (6) months after the effective date of these Orders, Respondent shall complete an evaluation of the WWTP staffing levels to determine if additional staff is needed in order to operate the plant and properly implement the approved pretreatment program. Respondent shall submit a report summarizing the findings of the staffing evaluation to Ohio EPA, Northwest District Office, in accordance with Section X of these Orders, within seven (7) months after the effective date of these Orders and staff the WWTP at the recommended levels within twelve (12) months of the effective date of these Orders.
  - c. Beginning on the effective date of these Orders and continuing until all actions described in Order No. 1 have been completed, Respondent shall submit reports to Ohio EPA, Northwest District Office, in accordance with Section X of these Orders, on a monthly basis describing the progress achieved in

completing Order No 1. Such reports shall include copies of all signed administrative compliance orders or evidence of administrative or judicial actions.

### **WWTP Upgrade**

2. As soon as possible but no later than six (6) months from the effective date of these Orders, Respondent shall submit a complete and approvable permit-to-install (PTI) application with detail plans for a new or improved disinfection system in order to meet E.coli effluent limits on the final effluent discharge to Snyder's Ditch (30 day average limits = 1030 colony counts per 100 ml; 7 day average limits = 2318 colony counts per 100ml).
3. As soon as possible but no later than eighteen (18) months from the effective date of these Orders, Respondent shall complete and have operational the necessary disinfection system improvements, consistent with the approved permit to install application and detail plans.

### **Civil Penalty Settlement Amount**

4. Respondent shall pay the amount of twelve thousand two hundred fifty dollars (\$12,250.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for nine thousand eight hundred dollars (\$9,800.00). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, to:

Ohio Environmental Protection Agency  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

A photocopy of the check shall be sent to Ohio EPA, Northwest District Office, in accordance with Section X of these Orders.

5. In lieu of paying the remaining two thousand four hundred fifty dollars (\$2,450.00) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a supplemental environmental project ("SEP") by making a contribution in the amount of two thousand four hundred fifty dollars (\$2,450.00) to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for said amount. The official check and a cover letter identifying the Respondent shall be submitted to Carol Butler, or her successor, at:

Ohio Environmental Protection Agency  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

A copy of the check shall be sent to Mark Mann, Enforcement Manager, Storm Water and Enforcement Section, or his successor, at the following address:

Ohio Environmental Protection Agency  
Division of Surface Water  
P.O. Box 1049  
Columbus, Ohio 43216-1049

6. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 5, Respondent shall immediately pay to Ohio EPA the remaining two thousand four hundred fifty dollars (\$2,450.00) of the civil penalty in accordance with the procedures in Order No. 4.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of the Respondent. For purposes of these Orders, a responsible official is defined in OAC Rule 3745-33-03.

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to activities occurring on or at the Site.

#### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and

regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

#### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

#### **X. NOTICE**

Unless otherwise stated herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northwest District Office  
Attn: Enforcement Supervisor  
Division of Surface Water  
347 North Dunbridge Road  
Bowling Green, Ohio 43402

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

#### **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

#### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

**XIII. EFFECTIVE DATE**

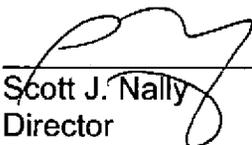
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED:**

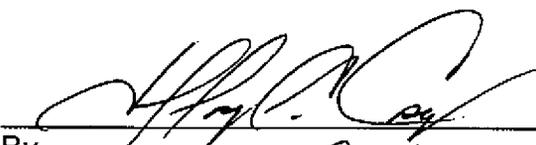
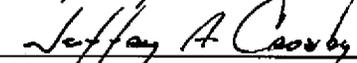
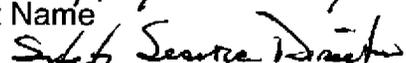
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Scott J. Nally  
Director

12/3/12  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**City of Bellevue**

  
\_\_\_\_\_  
By  
  
\_\_\_\_\_  
Print Name  
  
\_\_\_\_\_  
Title

Nov 20, 2012  
\_\_\_\_\_  
Date