

OHIO E.P.A.

MAR 19 2013

BEFORE THE OHIO

ENTERED DIRECTOR'S JOURNAL
ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Oregon Wastewater Treatment Plant	:	<u>Director's Final Findings</u>
4657 Dupont Road	:	<u>and Orders</u>
Oregon, Ohio 43616	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Oregon Wastewater Treatment Plant ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3753.08 and 3704.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3753 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent operates a wastewater treatment process at its facility located at 4657 Dupont Road in Oregon, Ohio (Lucas County). Chlorine is used in the water treatment process for disinfection. Chlorine is a regulated substance as defined in Ohio Administrative Code ("OAC") Rule 3745-104-01 and as listed in OAC Rule 3745-104-04. Respondent stores six thousand (6,000) pounds of chlorine at the facility.

2. Pursuant to OAC Rule 3745-104-05, an owner or operator of a stationary source which has more than a threshold quantity of a regulated substance in a process, shall comply with the requirements of OAC Rule 3745-104-06 by submitting a Risk Management Plan ("RMP") to Ohio EPA no later than June 21, 1999. Respondent submitted RMPs to Ohio EPA every five years, as required, stating that all of the documentation was complete and that the facility's RMP program was being implemented.

3. On March 10, 2005, an inspector with Ohio EPA, Division of Air Pollution Control ("DAPC") conducted the initial five-year inspection at Respondent's facility and discovered five rule violations. No penalty was assessed for the violations, but Respondent was required to correct the violations and remain in compliance with the facility's RMP. All of the violations were corrected and the facility was in compliance at that time.

4. On June 13, 2012, Ohio EPA conducted a second five-year inspection at Respondent's facility and discovered seven violations of the rules, which included three violations that were cited in the initial inspection. The violations are as follows:

- (a) Respondent failed to maintain all of the process safety information, in violation of OAC Rule 3745-104-24. This is a repeat violation from the 2005 RMP inspection;
- (b) Respondent failed to conduct a site specific process hazard analysis and to complete the recommendations in a timely manner, in violation of OAC Rule 3745-104-25. This is a repeat violation from the 2005 RMP inspection;
- (c) Respondent failed to annually certify the operating procedures, in violation of OAC Rule 3745-104-26(C);
- (d) Respondent failed to provide training to all of the employees at least every three years, in violation of OAC Rule 3745-104-27;
- (e) Respondent failed to create and implement a complete mechanical integrity program, in violation of OAC Rule 3745-104-28. This is a repeat violation from the 2005 RMP inspection;
- (f) Respondent failed to complete the recommendations from the 2007 and 2011 compliance audits, in violation of OAC Rule 3745-104-31; and

- (g) Respondent failed to create and implement an employee participation plan, in violation of OAC Rule 3745-104-33.

5. On June 26, 2012, the Ohio EPA RMP inspector sent Respondent a notice of violation letter requesting documentation to correct the violations cited in Finding 4 within thirty (30) days of receipt of the letter.

6. On August 3, 2012, Ohio EPA sent a follow-up letter to Respondent because no documentation had been submitted in response to the June 26, 2012 notice of violation. The August 3, 2012 letter required Respondent to submit the documentation within ten (10) days of receipt of the letter.

7. On August 28, 2012, Ohio EPA conducted a seminar that explained in detail what documentation the Ohio EPA, RMP inspectors require wastewater treatment facilities to maintain on site, how to obtain the required documentation, and how to implement a RMP program. Respondent's representative attended the seminar and provided the Ohio EPA inspector with a binder of documentation to address the violations discovered during the second five-year inspection of the facility.

8. The documentation provided by Respondent on August 28, 2012 addressed all of the violations discovered during the second five-year inspection of the facility, except for one. On September 12, 2012, the Ohio EPA RMP inspector spoke with Respondent and discussed the violation identified in Finding 4(e), which pertains to lack of inspections on the entire chlorine process (mechanical integrity program). Respondent stated that the documentation to address the violation would be submitted within fourteen (14) days.

9. On November 14, 2012, the Ohio EPA RMP inspector contacted Respondent again for the documentation related to the mechanical integrity program to correct the violation cited in Finding 4(e).

10. To date, no documentation has been submitted for the mechanical integrity program violation cited in Finding 4(e), and the facility remains out of compliance with the RMP requirements specified in OAC Chapter 3745-104.

11. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Within thirty (30) days after the effective date of these Orders, Respondent shall perform corrective actions for the violation cited in Finding 4(e), by submitting documentation to verify that all of the required inspections were conducted on the chlorine process.

2. Pursuant to ORC § 3753.09, Respondent is assessed a civil penalty in the amount of eleven thousand eighty-five dollars (\$11,085) in settlement of Ohio EPA's claim for civil penalties. Within thirty (30) days after the effective date of these Orders, Respondent shall pay \$11,085 in settlement of Ohio EPA's claim for civil penalties which will be deposited into the Risk Management Plan Fund (Fund 5420) established pursuant to ORC § 3753.05. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$11,085. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, attention Carol Butler, 50 West Town Street, P.O. Box 1049, Columbus, Ohio 43216-1049, together with the letter identifying the Respondent and the facility.

3. A copy of the above check shall be sent to Bruce Weinberg, Enforcement Manager, or his successor at the following address:

Ohio EPA
Division of Air Pollution Control
50 West Town St., Suite 700
P. O. Box 1049
Columbus, Ohio 43216

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 Air Pollution Control 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.

This 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 Respondent. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of Respondent.

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, the operation of the Respondent's facility.

VIII. OTHER APPLICABLE LAWS

All actions 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 applicable and enforcement of any other statute or regulation 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

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Kimberly Joseph
Ohio Environmental Protection Agency
Division of Air Pollution Control
50 West Town St., Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

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

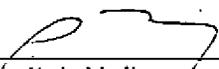
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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.

ORDERED AND AGREED:

Ohio Environmental Protection Agency

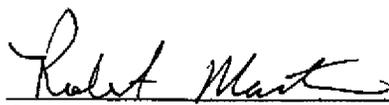


Scott J. Nally
Director

3/15/13
Date

AGREED:

Oregon Wastewater Treatment Plant



Signature

2/27/13
Date

ROBERT MARTIN
Printed or Typed Name

 2/26/13
PAUL ROMAN
Director of Public Service