

OHIO E.P.A.

AUG 15 2013

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

**Delta Fuels, Inc.
1820 Front St.
Toledo, Ohio 43605**

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**Director's Expedited
Settlement Agreement and Orders**

Respondent

I. JURISDICTION

This Expedited Settlement Agreement and Order (ESA) is issued to Delta Fuels Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("R.C.") 6111.03 and 3745.01.

II. FINDINGS

1. Respondent owns and operates a bulk petroleum product storage and distribution location facility ("Facility") at Delta Fuels Inc., which is located at 1820 Front St. Toledo, Ohio 43605.
2. Respondent holds a valid, unexpired National Pollutant Discharge Elimination System ("NPDES") permit, number 21N00226*BD ("permit"). A timely renewal application was received.
3. Respondent treats storm water runoff by oil-water separation and treats water from ground water remediation by carbon adsorption and oil-water separation. After treatment, water discharges from the Facility, outfall 21N00226001 to the Maumee River via a storm sewer.
4. The Maumee River is a water of the state as defined by R.C. Section 6111.01.
5. This document does not modify NPDES Permit Number 21N00226. The purpose of this document is to correct a condition of noncompliance with NPDES Permit Number 21N00226 and not to alter said permit.
6. Pursuant to R.C. Section 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC Sections 6111.01 to 6111.08 or violate any order,

rule, or term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.

7. The NPDES permit Part I.A. requires Respondent to sample and report at outfall 21N00226001 when discharging. This means that every day there is a discharge, Respondent is required to sample and report the results monthly on the electronic Monitoring Discharge Report ("eDMR"). If no discharge occurs during an entire month, Respondent is still required to submit an eDMR.
8. From April 2008 through April 2013, Respondent has failed to submit 59 out of the 60 required eDMRs.
9. The NPDES permit Part II.F requires Respondent to monitor volatile pollutants, total cyanide, total phenols, base neutrals and metals at outfall 21N00226001 on a yearly basis. Respondent has not submitted reports of sampling analysis for 2008, 2009, 2010 or 2011.
10. On November 6, 2012, Ohio EPA sent the Respondent a Notice of Violation Letter ("NOV") in an effort to resolve the following violations:
 - a. An inspection of the Facility was performed on October 3, 2012. At the time of inspection, the outfall pipe was discharging a flow that was significant enough for a sample to be collected, although there was no measurable rainfall in the two days prior to the inspection. Ohio EPA's records indicated that no monthly sampling results, as required in the NPDES permit, had been reported since March, 2008.
 - b. Annual chemical analysis reporting requirements were not reported as required.
11. On February 13, 2013, Ohio EPA sent the Respondent a second NOV in an effort to address the failure to submit eDMRs and annual chemical analysis reports. Attachment I is Respondent's NOV letters. Attachment I is hereby incorporated into these Findings and Orders as if fully stated herein.
12. 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 purposes of R.C. Chapter 6111.
13. In consideration of Respondent's size of business, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the entire record, this ESA is an appropriate mechanism to resolve the noncompliance detailed in the Findings of this ESA.

III. ORDERS

1. Within sixty (60) days from the date of the letter inviting Respondent to sign this ESA, Respondent shall begin sampling outfall 2IN00226001 and reporting to eDMR at least once per month. Sampling collected for the required monthly monitoring shall include treated water from the storage and distribution facility.
2. Within sixty (60) days from the date of the letter inviting Respondent to sign this ESA, Respondent shall pay to the Ohio EPA the amount of four thousand dollars (\$ 4,000) in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter 6111.09 of the Ohio Revised Code. Payment shall be made by tendering an official check made payable to ""Treasurer, State of Ohio" to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the location of the noncompliance detailed in the Findings of this ESA

A photocopy of the check shall be sent to Ohio EPA at the address listed below:

Ohio Environmental Protection Agency
Central District Office
50 West Town Street
P.O. Box 1049
Columbus, Ohio 43216
Attn: Division of Surface Water Enforcement Supervisor

IV. TERMINATION

Respondent's obligations under this ESA shall terminate upon Ohio EPA's receipt of the civil penalty payment required by this ESA and completion of Order number 1.

V. RESERVATION OF RIGHTS AND WAIVER

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived herein.

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 this ESA, Respondent consents to the issuance of this ESA and agrees to comply with this ESA. Compliance with this ESA shall be a full accord and satisfaction of Respondent's liability for the violations specifically cited herein.

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

Notwithstanding the preceding, Ohio EPA and Respondent agree that if this ESA is 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 comply with this ESA notwithstanding such appeal and intervention unless this ESA is stayed, vacated, or modified.

VI. EFFECTIVE DATE

The effective date of this ESA is the date this ESA is entered into the Ohio EPA Director's journal.

VII. SIGNATORY AUTHORITY

Each undersigned representative or party to this ESA certifies that he or she is fully authorized to enter into this ESA and to legally bind such party to this ESA.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Scott J. Nally, Director

8/14/13
Date

IT IS SO AGREED:

Delta Fuels Inc.



Signature

July 30, 2013
Date

Samuel L. Warren

Printed or Typed Name

Terminal Complex Manager

Title

Attachment I



John R. Kasich, Governor
Mey Taylor, Lt. Governor
Scott J. Hefty, Director

Re: Lucas County
Delta Fuels, Inc.
NPDES Permit

November 6, 2012

Mr. Samuel L. Warren
Terminal Manager
Delta Fuels, Inc.
1820 Front Street
Toledo, Ohio 43605

Dear Mr. Warren:

On October 3, 2012, I met with you and Mr. Eddie Royna, Terminal Operator, at the Toledo Terminal of Delta Fuels, Inc. located at 1820 Front Street, Toledo, Ohio, to conduct an inspection of the facility's wastewater collection, treatment, and discharge facilities.

It was indicated that all yard drains and treated tank farm water passes through an oil/water separator prior to being discharged. The tank farm water, if and when released, passes through an on-site petroleum remediation and treatment system before being diverted to the oil/water separator.

At the time of inspection, the outfall pipe was discharging a flow that is significant enough for a sample to be collected, although there was no measurable rainfall in the last two days. Our records indicate that no monthly sampling results, as required in your National Pollutant Discharge Elimination System (NPDES) permit, have been reported since March 1, 2008. Also, other annual reporting requirements were not reported as required.

Please be advised that failure to comply with the effluent limitations and/or monitoring requirements, including adequate laboratory controls, appropriate quality assurance procedures, and records retention, as specified in Part III-General Conditions of your NPDES permit may be cause for enforcement action pursuant to Ohio Revised Code, Chapter 6111. If these violations continue to occur and if satisfactory progress is not made, it will be necessary to initiate enforcement action to achieve compliance.

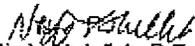
Mr. Samuel L. Warren
November 6, 2012
Page Two

Please note that a renewal application for the facility's NPDES permit was required to be submitted to our office by August 28, 2012. We have not received the renewal application as of the date of this letter. Please submit a Form 1 and Form 2C and the Antidegradation Addendum within 14 days. You can download the form from the following link:
<http://www.epa.ohio.gov/dsw/formspubs.aspx>.

Please inform this office in writing within 10 days as to the steps that will be taken to return to compliance. Your response should include the dates, either actual or proposed for completion of these actions.

If you have any questions regarding the above, please contact me at (419) 373-3017 or via email at naajy.abdullah@epa.state.oh.us.

Sincerely,


Naajy Abdullah, P.E.
Division of Surface Water

/jlm

Enclosure

cc: Tracking



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Kelly, Director

Re: Lucas County
Delta Fuels, Inc.
NPDES Permit

February 13, 2013

Mr. Samuel L. Warren
Terminal Manager
Delta Fuels, Inc.
1820 Front Street
Toledo, Ohio 43605

Dear Mr. Warren:

On February 6, 2013, I met Mr. Eddie Reyna, Terminal Operator, at the Toledo Terminal of Delta Fuels, Inc. located at 1820 Front Street, Toledo, Ohio, to conduct an inspection of the facility's wastewater collection, treatment, and discharge facilities.

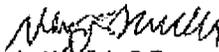
It was indicated that the tank farm collected water is discharged into the on-site carbon treatment system prior to flowing into the oil/water separator and ultimately into the regulated discharge outfall. Please note that the sample collected for the required monthly monitoring should include this treated tank farm water if a discharge is anticipated during the month. At the time of inspection, the discharge was flowing clear water.

Our records indicate that since the effective date of your National Pollutant Discharge Elimination System (NPDES) permit, no discharge reports were submitted. Please note that failure to sample and/or submit monthly reports is a violation of the conditions of your NPDES permit.

Please inform this office by March 1, 2013, of the reasons for not sampling and reporting, and expected return to compliance with the conditions of the NPDES permit.

If you have any questions regarding the above, please contact me at naajy.abdullah@opa.ohio.gov, or (419) 373-3017.

Sincerely,


Naajy Abdullah, P.E.
Division of Surface Water

fjm
Enclosure
cc: Tracking