

OHIO E.P.A.

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ENTERED DIRECTOR'S JOURNAL

Effective Date

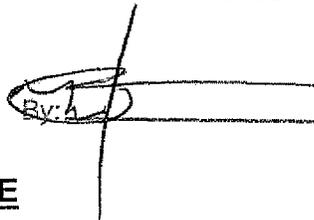
BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of :
:
Caliber Automotive Transfer of Ohio, Inc. :
and :
Southern Region Industrial Realty, Inc. :
3101 N. Twp. Rd. 47 :
Fostoria, Ohio 44830 :

DIRECTOR'S FINAL
FINDINGS AND ORDERS

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

Respondents,

By:  Date: 12.22.09

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Caliber Automotive Transfer of Ohio, Inc. (Lessee and Operator-Respondent) and Southern Region Industrial Realty, Inc. (Owner-Respondent), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) Chapter 6109 and § 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and successors in interest liable under Ohio law. No change in ownership of Respondents' public water system shall in any way alter Respondents' 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 6109 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA (Director) has determined the following findings:

1. Respondents own or operate a "public water system" (PWS) as defined by ORC § 6109.01, which is also a "nontransient noncommunity water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondents' PWS (PWS ID# OH7448712) is located at 3101 North Township Road 47, Fostoria, (Seneca County), Ohio, 44830.
3. Respondents' PWS obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01 and serves a population of 125 persons.
4. In accordance with OAC Rule 3745-81-21(A)(2)(a), a noncommunity water system using only ground water or purchased water and serving not more than one thousand persons shall monitor with at least one total coliform sample each calendar quarter that the noncommunity water system provides water to the public.
5. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondents failed to monitor with at least one total coliform sample per quarter during the October through December 2002, January through March 2004, July through September 2004, January through March 2005, July through September 2005, January through March 2006, April through June 2006, July through September 2006, January through March 2007, July through September 2007, January through March, 2008, and April through June 2008 monitoring periods.
6. In accordance with OAC Rule 3745-81-86(D)(4)(a), a small or medium sized system that does not exceed either the lead or copper action level during two consecutive six-month monitoring periods may reduce the number of samples and frequency of sampling to once per year.
7. In violation of OAC Rule 3745-81-86(D)(4)(a), Respondents failed to collect lead and copper samples annually during 2004, 2005, 2006, and 2007.
8. The Director issued chemical contaminant monitoring schedules to Respondents for the compliance periods that began on January 1 and ended on December 31 for the years of 2004, 2005, and 2006.
9. In accordance with OAC Rule 3745-81-24(C)(1), nontransient noncommunity PWSs that treat their water with chlorine shall monitor for total trihalomethanes (TTHM) and haloacetic acids five (HAA5) according to their chemical contaminant monitoring schedule.

10. In violation of OAC Rule 3745-81-24(C)(1) and Respondents' 2004, 2005 and 2006 chemical monitoring schedules, Respondents failed to monitor for TTHM and HAA5 during the July through September 2004, July through September 2005, and July through September 2006 monitoring periods. Respondents returned to compliance on September 30, 2007.
11. In accordance with OAC Rule 3745-81-24(A), ground water systems shall monitor for volatile organic chemicals (VOCs) with maximum contaminant levels (MCLs) with a minimum of one sample at each respective sampling point during each compliance period on an annual basis.
12. In violation of OAC Rule 3745-81-24(A) and Respondents' 2006 chemical monitoring schedule, Respondents failed to sample for VOCs during the January through May 2006 monitoring period.
13. In accordance with OAC Rule 3745-83-01(G), all nontransient noncommunity water systems that add chlorine must monitor for free and combined chlorine residual at the plant tap and in the distribution system daily.
14. In accordance with OAC Rule 3745-83-01(I), monthly operating reports (MORs) must be submitted no later than the tenth of the month following the month being reported.
15. In violation of OAC Rule 3745-83-01(G) and 3745-83-01(I), Respondents failed to conduct daily free and combined chlorine residual monitoring at the plant tap and in the distribution system and submit the corresponding MOR during July 2004, August 2004, September 2004, December 2004, January 2005, March 2005, July 2005, October 2005, November 2005, December 2005, January 2006, February 2006, March 2006, April 2006, May 2006, June 2006, July 2006, August 2006, September 2006, October 2006, November 2006, January 2007, February 2007, March 2007, May 2007, June 2007, and February 2008.
16. In accordance with OAC Rule 3745-83-01(G)(9)(a), a public water system serving fewer than two hundred and fifty persons that provides treatment to reduce iron shall monitor for iron at least monthly at each entry point into the distribution system using a state certified laboratory.
17. In violation of OAC Rule 3745-83-01(G)(9)(a), Respondents failed to monitor for iron during January 2008.
18. In accordance with OAC Rule 3745-81-70(E)(1), requires total chlorine residual be taken at the same time total coliform bacteria samples are collected.
19. In accordance with OAC Rule 3745-81-75(C), disinfection information will be reported to the director within ten days after the end of each month the public water system serves water to the public.

20. In violation of OAC Rule 3745-81-70(E)(1) and 3745-81-75(C), Respondents failed to report to the director the required disinfection data by the required date during the April to June 2004, July through September 2004, October through December 2004, January through March 2005, April through June 2005, July through September 2005, October through December 2005, January through March 2006, July through September 2006, October through December 2006, January through March 2007, April through June 2007, July through September 2007, and October through December 2007 monitoring periods.
21. In accordance with OAC Rule 3745-9-05(P), a well cap or seal shall fit securely to the top of the well casing, be secured with screws or other appropriate connections, and vent to the atmosphere.
22. In violation of OAC Rule 3745-9-05(P), Respondents failed to have a properly vented well seal as described in OAC Rule 3745-9-05(T) as documented on the site visit of September 11, 2007.
23. In accordance with OAC Rule 3745-81-21(A), PWSs shall collect total coliform routine samples at sites which are representative of water throughout the distribution system according to a written sample siting plan.
24. In violation of OAC Rule 3745-81-21(A), Respondents failed to have and maintain a written sample siting plan, as documented on the site visit of September 11, 2007.
25. In accordance with OAC Rule 3745-81-24(C)(2), each PWS required to monitor for TTHM and HAA5 shall develop and implement a sample monitoring plan and shall maintain the plan and make it available for inspection by the director.
26. In violation of OAC Rule 3745-81-24(C)(2), Respondents failed to have and maintain a TTHM and HAA5 sample monitoring plan since September 17, 2007.
27. In accordance with OAC Rule 3745-81-76(B)(2)(b), source water shall be designated as ground water when untreated water samples from the well have been analyzed for coliform contamination for at least the previous four calendar quarters of a year with no analysis showing any coliform bacterium present.
28. In violation of OAC Rule 3745-81-76(B)(2)(b), Respondents have failed to submit four consecutive quarters of total coliform monitoring results for raw water samples from well #1 after installation of the well in 2001. Respondent was notified of this requirement on September 5, 2001, December 11, 2001, September 12, 2003, December 9, 2003, February 3, 2005, and June 6, 2005. Respondents untimely submitted four consecutive quarters of total coliform monitoring results for raw water samples from well #1 and was notified on February 17, 2009 that requirements were met to designate Respondents' source as ground water.

29. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS shall provide public notification for violations.
30. In violation of OAC Rule 3745-81-32, Respondents failed to provide public notification for the failure to monitor with at least one total coliform sample during the July through September 2004, January through March 2005, July through September 2005, January through March 2006, April through June 2006, July through September 2006, and January through March 2007, July through September 2007, and January through March 2008 monitoring periods. Verification of public notification was untimely received for these violations on September 2, 2008.
31. In violation of OAC Rule 3745-81-32, Respondents failed to provide public notification for the failure to monitor for lead and copper in 2004, 2005, and 2006. Verification of public notification was untimely received for these violations on September 2, 2008.
32. In violation of OAC Rule 3745-81-32, Respondents failed to provide public notification for the failure to monitor for TTHM and HAA5 during the July through September 2005 and the July through September 2006 monitoring periods. Verification of public notification was untimely received for these violations on September 3, 2008.
33. Each violation cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. From the effective date of these Orders, and for as long as Respondents operate a PWS, Respondents shall comply with total coliform bacteria MCL and monitoring requirements, in accordance with OAC Rule 3745-81-14 and OAC Rule 3745-81-21, respectively.
2. Respondents shall comply with its chemical contaminant monitoring schedule for the calendar year 2008 and all subsequent monitoring schedules issued by the Director.
3. Within thirty (30) days of the effective date of these Orders, Respondents shall alter the PWS well cap to be properly vented to meet the requirements of the well standards cited in OAC Rule 3745-9-05(P) and (T).
4. Within thirty (30) days of the effective date of these Orders, Respondents shall submit their current bacteriological sample siting plan and disinfection by-products sample monitoring plan for Ohio EPA review and maintain a copy on site.

5. Respondent Caliber Auto Transfer of Ohio Inc. shall pay the amount of twelve thousand eight hundred dollars (\$12,800.00) in settlement of Ohio EPA's claim for civil penalties which may be assessed pursuant to ORC Chapter 6109. Within thirty (30) days after the effective date of these Orders, Respondent Caliber Auto Transfer of Ohio, Inc. shall make payment by an official check made payable to "Treasurer, State of Ohio" for nine thousand forty dollars (\$9,040.00). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049.
6. In lieu of paying two thousand five hundred sixty dollars (\$2,560.00) of civil penalty, Respondent Caliber Auto Transfer of Ohio, Inc. 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 \$2,560.00 to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for two thousand five hundred sixty dollars. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049.
7. In lieu of Respondent Caliber Auto Transfer of Ohio, Inc. paying the remaining one thousand two hundred dollars (\$1,200.00) of civil penalty pursuant to Order Number 5, Respondent Southern Region Industrial Realty, Inc. agrees to implement a SEP consisting of contracting the services of a certified operator with a Class I or higher certification for a period of not less than twelve months.
8. Should Respondents fail to fund the SEPs within the required time frames set forth in Orders No. 6 and 7, Respondents agree to pay Ohio EPA the remaining \$3,760.00 of the civil penalty in accordance with the procedures in Order No. 5.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have performed all obligations under these Orders and the Chief of Ohio EPA's DDAGW 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 Respondents of the obligations that have not been performed, in which case Respondents 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 Respondents to Ohio EPA and shall be signed by a responsible official of Respondents. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03(E).

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 Respondents' PWS.

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 Respondents.

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 Respondents pursuant to these Orders (with the exception of the penalty payment in Orders No. 5 and 6) shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Drinking and Ground Waters
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attn: JoAnn Sabo, District Office Compliance Coordinator

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

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondents 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, Respondents consent to the issuance of these Orders and agree to

Director's Final Findings and Orders
Caliber Auto Transfer of Ohio, Inc. / Southern Region Industrial Realty, Inc.
Page 8

comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

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

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents 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 AND AGREED:

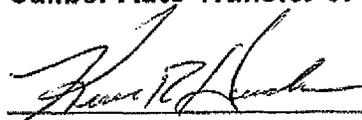
Ohio Environmental Protection Agency


Chris Korleski, Director

DEC. 22 2009
Date

IT IS SO AGREED:

Caliber Auto Transfer of Ohio


Signature

11-25-09
Date

Kevin R Hossler / V.P. CALIBER AUTO TRANSFER OF OHIO
Printed or Typed Name and Title

Southern Region Industrial Realty, Inc.

C.H. Allison Jr.
Signature

November 17, 2009
Date

C.H. Allison Jr. /VP
Printed or Typed Name and Title