

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

U.S. Liquids, Inc.
12428 St. Rt. 88
Garrettsville, Ohio 44231

Director's Final Findings
and Orders

ENTERED DIRECTOR'S JOURNAL

MAY 15 2009

OHIO E.P.A.

Respondent

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to U.S. Liquids, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03, 6111.46 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and its successors in interest liable under Ohio law.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111 and the rules promulgated there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is U.S Liquids, Inc., an Ohio corporation with charter/registration number 1725995. Respondent owns and operates an industrial business in Portage County located at 12428 St. Rt. 88 Garrettsville, Ohio 44231 (the Site). Based on records of the Portage County Auditor, the property is owned by Turkey Ridge Properties, LLC.

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.

By: Will T. Full Date: 5/15/09

2. The Site is the former location of the Bil-Mar turkey slaughtering facility.
3. As a remnant of the Bil-Mar facility, the Site includes a wastewater treatment plant (WWTP) consisting of a 350,000 gallon Orbal treatment unit, a clarifier, synthetic lined lagoon and a 900,000 gallon sludge holding tank. The discharge is pumped from the lagoon to a grass waterway leading to Camp Creek.
4. Camp Creek constitutes "waters of the state" as defined by ORC Section 6111.01.
5. Subsequent to the Bil-Mar operation but prior to Respondent's current operation, an NPDES permit was issued to Mr. Daniel Wantz. That permit was designed for domestic sewage. Any operations beyond conventional sewage would require a new or modified NPDES permit.
6. On April 2, 2007, Mr. Wantz filed an application to transfer the permit to Chardon Village Properties LLC. The permit was renewed and transferred on August 24, 2007 in the name of Mark Fuerst.
7. Without notifying or seeking permits from Ohio EPA, Respondent commenced operations at the Site by or before July 2008. At that time, operations entailed accepting off-specification liquids (liquid waste) in their original store packaging from manufacturers for a fee paid by the manufacturer to Respondent. The liquid waste consisted of soda, beer, wine, milk, coffee creamer products etc. Upon acceptance, the liquid waste was run through a process that punctured/breached the containers such that the liquids were released, collected and then sent to the WWTP for treatment and eventual disposal. The bottles, aluminum cans, and glass were further processed and shipped off as raw materials to buyers.
8. The liquid waste collected for treatment and disposal, along with wash water generated as a part of routine cleaning of the processing lines, are industrial waste as that term is defined by ORC Section 6111.01(C) and ORC Section 6111.45.
9. As provided for by ORC Section 6111.45, no person shall establish as proprietor, agent, employee, lessee, or tenant, any garbage disposal plant, shop, factory, mill, industrial establishment, process, trade, or business in the operation of which an industrial waste is produced, or make a change in or enlargement of a garbage disposal plant, shop, factory, mill, industrial establishment, process, trade, or business whereby an industrial waste is produced or materially increased or changed in character, or install works for the treatment or disposal of any such waste until the plans for the disposal of the waste have been submitted to and approved by the director of environmental protection. As used

in sections 6111.44 to 6111.46 of the Revised Code, "industrial waste" means sludge or sludge materials or a water-carried or liquid waste resulting from any process of industry, manufacture, trade, or business or development of any natural resource, but does not include storm water from any animal feeding facility, as defined in section 903.01 of the Revised Code, or manure, as defined in that section.

10. ORC 6111.44 states that no person shall provide or install sewerage or treatment works for sewage, sludge, or sludge materials disposal or treatment or make a change in any sewerage or treatment works until the plans have been submitted to and approved by the director of environmental protection.
11. To date, Respondent has never applied for or received plan approval for this operation in violation of ORC Section 6111.45, 6111.44 and 6111.07. Further, while an NPDES permit exists for a discharge from the Site under the name of Mark Fuerst, it does not permit the discharge of the type of wastewater generated by Respondent's operations.
12. In July 2008, Ohio EPA received complaints concerning odors coming from U.S. Liquids. On July 30, 2008, Ohio EPA inspected the facility. A representative of Respondent, Mr. Mark Fuerst, indicated that the odors were a result of sludges breaking loose from underground piping, presumed to be residual material from the previous turkey slaughtering facility. The units were then power washed, repaired and put back into operation.
13. As a follow-up to the July 30, 2008 investigation, Ohio EPA sent Respondent a letter dated August 5, 2008 memorializing steps to address odors emanating from the wastewater treatment plant. Respondent was directed to submit an engineering report to address the following items to determine the treatability and future permit requirements needed if this wastewater was to be discharged to waters of the state:
 - a. Volume, strength, characteristics of wastewater to be treated;
 - b. Capabilities of existing treatment;
 - c. Need for chemical addition for biological treatment;
 - d. Anticipated effluent quality; and
 - e. Changes needed to treatment system (ie. Trash trap, flow equalization, etc.)

14. To date, no engineering report has been submitted and thus the WWTP is acting as an unpermitted holding tank in violation of ORC Section 6111.44, 6111.45 and OAC Rule 3745-42-11.
15. On March 20, 2009, Ohio EPA's Division of Surface Water, Division of Emergency and Remedial Response, and Special Investigation Unit responded to a report that several miles of Camp Creek being turned green. The source of the contamination was traced back to Respondent's facility. It was observed that biological activity for several miles of the stream along with a private pond adjacent to the Respondent's Site was severely impacted. This impact included a fish kill.
16. Pursuant to ORC Section 6111.04, no person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state without a permit.
17. The unauthorized release of March 20th was determined to be from an overflow from Respondent's wastewater treatment system into waters of the state. This is a violation of ORC Section 6111.04. Ohio EPA issued a Notice of Violation (NOV) letter dated March 25, 2009.
18. As a part of the effort to minimize the adverse effects of this release, Ohio EPA's Division of Emergency and Remedial Response required Respondent to bring in eight large portable holding tanks (frac tanks) in which contaminated water from the neighboring pond was to be pumped and aerated until a dissolved oxygen level of 8.0 mg/l and a pH of 6.5-9.0 were reached. Respondent was directed to not release any water to waters of the state without the approval of the Division of Emergency Response. On April 15, 2009, the effluent in the frac tanks met this criteria and a release to the creek was initiated.
19. On April 19, 2009, a phone call was received by Ohio EPA's spill hotline which stated that the stream was running brownish. When Ohio EPA, DERR arrived at the site, Respondent was seen pumping directly from the pond to waters of the state in contravention of the directives given by DERR. Respondent was instructed to immediately shut down the system and was informed that he no longer had approval to discharge any additional water. Discharging of this wastewater to waters of the state in this manner is a violation of ORC Section 6111.04.
20. Respondent installed a plug for the gravity discharge line from the clarifier overflow outlet to prevent future overflows. Further, Respondent, on March 23, 2009, informed Ohio EPA by email that its business venture utilizing the treatment plant would be discontinued and that Respondent had contacted a

consultant to develop a plan for disposal of the wastewater currently in the treatment tanks. It was learned that Respondent intends to use the liquid waste it receives for various customers including feed for livestock and a source for ethanol producers.

21. Based on conversations with Respondent that occurred in early April, 2009, it was learned that Respondent continued to accept liquid waste at the site. Ohio EPA issued another NOV dated April 15, 2009, directing Respondent to cease accepting waste and adding any liquids to the treatment system until such time as the appropriate permits had been obtained by the company. The NOV also indicated that Respondent was using the treatment system as an authorized holding tank in violation of OAC Chapter 3745-42.
22. Sanitary waste from Site's restrooms was originally collected and discharged to the wastewater treatment system. Because Respondent cannot discharge or place any more wastewater into that system, Respondent will be required to find a lawful means to dispose of this sanitary wastewater.
23. Ohio EPA met with Mr. Fuerst and his consultant on April 17, 2009 to discuss the potential land application of the wastewater currently being held in the treatment system, clarifier, lagoon, sludge holding tank, and adjacent farmer's pond. This application was submitted to NEDO on April 23, 2009 under the name "Northern Ohio Multi Puroise Inc." (sic) and/or Northern Ohio Multipurpose Inc. A search of the Ohio Secretary of State's data base for Ohio corporations did not reveal a filing of this company.
24. Ohio EPA conducted a follow up inspection of the facility on April 28, 2009. It was determined that Respondent continued to take liquid waste to the Site. Based on estimates provided by Mr. Fuerst, Respondent had about 90,000 gallons of liquid waste still contained in its original packaging waiting processing. Ohio EPA has asked for evidence of existing contracts for purposes of sending this material off site but was told that only oral agreements existed at the present time.
25. Based on recent conversations, Respondent has indicated an intention of expanding operations to include raising pigs on site with a stated intention of housing up to 2,400 pigs at the facility. Respondent has submitted an application to Ohio EPA's Division of Solid and Infectious Waste an application to become a Class III Compost Facility.
26. Pursuant to ORC 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.

27. 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 PTI requirements of Ohio Administrative Code ("OAC") Chapter 3745-42.
28. Compliance with the ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
29. Ohio EPA 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 ORC Chapter 6111.

V. ORDERS

The Director hereby issues the following Orders:

1. No liquid waste shall be added to the WWTP.
2. Within 14 days of these Orders, Respondent shall submit an application to Ohio EPA for plan approval to lawfully dispose of wastewater existing in the treatment system, clarifier, sludge holding tank, synthetic lined lagoon, and the adjacent farmer's pond. The plan shall be limited to the following two options, in whole or combination:
 - a. Haul the wastewater to a permitted publically owned treatment works; or
 - b. Land application of the material at acceptable agronomic rates.

The plan application shall include a schedule for accomplishing the disposal which Ohio EPA may, in its plan approval, either approve or approve with modifications. Upon Ohio EPA approval, Respondent shall dispose the wastewater in accordance with the plan and the plan's schedule.

3. Upon the effective date of these Orders and until a Permit to Install (PTI) is obtained to handle sanitary wastes generated at the site in accordance with Order 4, Respondent shall contain and haul sanitary wastewater generated at the

facility to a POTW. A hauling contract shall be provided to the Northeast District Office within 5 days of the effective date of these Orders.

4. Within 30 days of these Orders, Respondent shall submit a PTI application for the sanitary sewage system upgrade. The treatment system shall be installed within 30 days of approval of the PTI.
5. Upon the effective date of these Orders and until a Permit to Install (PTI) is obtained to handle process wastewater generated at the site in accordance with Order 6, Respondent shall contain and haul process wastewater generated at the facility to a POTW.
6. Within 30 days of the effective date of these Orders, Respondent shall submit a PTI for handling of the process wastewater. The treatment system shall be installed within 30 days of effective date of the approved PTI. Accompanying this application shall be a business plan for facility operations.
7. Upon the effective date of these Orders and until a PTI is obtained in accordance with Order 6, Respondent shall submit documentation to Ohio EPA, NEDO by Monday of each week detailing the following: (1) an accounting of all liquid wastes received by the facility, (2) an accounting of liquid wastes shipped off Site for the prior week, (3) an estimate of the number of gallons of liquid waste are stored onsite. Respondent shall include as support for this accounting, manifests that evidence the receipt of waste at Respondent's facility and manifests evidencing the shipment off site.
8. Upon the effective date of these Orders and until a PTI is obtained in accordance with Order 6, Respondent shall ensure that no more than a two week supply of non alcoholic liquid waste will be maintained on Site at any given time. All alcohol products that require government approval prior to destruction shall be re-processed within 1 week of authorized destruction.
9. Respondent shall store all liquid waste inside its processing warehouse.

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(E)(1) for a corporation, OAC Rule 3745-33-03(E)(2) for a partnership, OAC Rule 3745-33-03(E)(3) for a sole proprietorship, and OAC Rule 3745-33-03(E)(4) for a municipal, state, or other public facility.

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. NOTICE

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

Ohio Environmental Protection Agency
Northeast District Office
Attn: Enforcement Supervisor
Division of Surface Water
2110 East Aurora Road
Twinsburg, Ohio 44087

X. RESERVATION OF RIGHTS

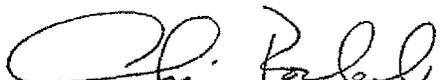
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal, or equitable action as deemed appropriate and necessary, including seeking penalties or fines against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 6111 or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal, or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

XI. EFFECTIVE DATE

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency


Chris Korleski

5/15/09
Date