Ohio EPA
40 years and moving forward

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

July 10, 2013

Mr. Jeff Roberts
TCCI Laboratories, Inc.
120 West Broadway St.
New Lexington, Ohio 43764

Certified Mail
91710821333937150188877

RE: Director's Administrative Orders
TCCI Laboratories, Inc.
Perry County

Dear Mr. Roberts:

I have enclosed a certified copy of the journalized, agreed upon Final Findings and Orders, for TCCI Laboratories, Inc. This document is a final action of the Director and will be public noticed as required by Rule 3745-47-07(A) of the Ohio Administrative Code. The effective date of these orders is July 10, 2013.

If you have any questions concerning compliance with these Findings and Orders, please call me at (614) 644-2752.

Sincerely,

Kenneth Baughman
Environmental Specialist

Enclosures

ec: Holly Kaloz, Manager, DDAGW-CO
Todd Kelleher, Supervisor, DDAGW-CO
Julie Spangler, Supervisor, DDAGW-CO
Kirk Leifheit Chief, DES
Nikola Dzamov, Supervisor, DES
Kimberly Rhoads, Office of Legal Services
Carol Hester, Chief, PIC

OHIO E.P.A.
JUL 10 2013
ENTERED DIRECTOR'S JOURNAL

Effective Date JUL 10 2013

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

TCCI Laboratories, Inc. :
120 West Broadway St. :
New Lexington, Ohio 43764 :

Respondent,

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 Ohi Environmental Protection Agency.

By: [signature] Date: 7-10-13

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to TCCI Laboratories, Inc. (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 Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent's laboratory 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 6109 and the rules promulgated thereunder.

IV. FINDINGS

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

1. Respondent owns and operates a for-profit laboratory located at 120 West Broadway St., New Lexington, Ohio 43764 (Perry County).

2. In accordance with Ohio Administrative Code (OAC) Rule 3745-89-02, analysis of drinking water samples for the purposes of determining compliance with OAC Chapters 3745-81 and 3745-82 must be performed by a laboratory holding a valid

and unexpired certification under OAC Chapter 3745-89 and by an individual conducting analyses designated on the laboratory certificate of approval. Respondent holds certifications for performing analysis of fluoride, primary inorganics, lead and copper, nitrate, nitrite, and total coliform (by MMO-MUG [9223] and Colilert Quanti-Tray [9223]).

3. In accordance with OAC Rule 3745-89-03, a laboratory shall submit to Ohio EPA an application for drinking water analyses on a form provided by the Director for which type of certification is sought.

4. In accordance with OAC Rule 3745-81-27(D)(2)(b), total coliform analyses by Colilert-18 is referenced as 9223-18 for certification purposes.

5. In accordance with OAC Rule 3745-89-05(A)(2), a laboratory must have documentation that only individuals who have interim authorization or have participated in a recent on-site survey for a laboratory certification and/or are listed on a laboratory certificate of approval have performed drinking water analyses and reported results for the purpose of determining compliance.

6. In accordance with OAC Rule 3745-89-05(A)(3), a laboratory must have documentation that drinking water analyses required for the purpose of determining compliance are performed in accordance with the analytical methods which the laboratory has been certified to use.

7. In violation of OAC Rules 3745-89-02, 3745-89-03, 3745-89-05(A)(2) and 3745-89-05(A)(3), Respondent analyzed total coliform from on or about January 1, 2012 to September 5, 2012 using Colilert-18 (9223-18), a method for which Respondent was not certified to use.

8. In accordance with OAC Rule 3745-89-08(D), reporting of analytical data for determining compliance shall be submitted to Ohio EPA in a form acceptable to the Director and shall be complete and correct.

9. In violation of OAC Rule 3745-89-08(D), Respondent submitted results to Ohio EPA on October 1, 2012 for sample #70008 as total coliform negative when the sample tested as total coliform positive.

10. In accordance with OAC Rule 3745-89-08(B), all total coliform positive results required by OAC Rules 3745-81-14 and 3745-81-21 shall be reported to Ohio EPA by no later than the end of the next business day after the result was obtained.

11. In violation of OAC Rule 3745-89-08(B), Respondent failed to report by the end of the next business day of October 10, 2012, sample #70173, analyzed on October 8, 2012, as total coliform positive. Respondent untimely reported these sample results to Ohio EPA on October 22, 2012.

12. In accordance with OAC Rule 3745-89-08(C), all results that exceed any maximum contaminant level (MCL) specified in OAC Rules 3745-81-11, 3745-81-12, or 3745-81-15, and all resample results to confirm MCL exceedances, shall be reported to Ohio EPA by no later than the end of the next business day after the result was obtained.

13. In violation of OAC Rule 3745-89-08(C), Respondent failed to report sample #1207982, analyzed on November 15, 2012, which exceeded the nitrate MCL, by the end of the next business day of November 16, 2012. Respondent untimely reported these sample results to Ohio EPA on December 13, 2012.

14. On September 12, 2012, Ohio EPA performed an unannounced microbiology survey at Respondent's laboratory and noted the following deviations:

    a. Quality Control (QC) data not recorded as tests were observed;

    b. Current lot of Colilert in use without reagent QC being performed because all organisms were not available in the laboratory;

    c. Decontamination cycles on the autoclave did not have a sterilization temperature recorded for several entries in August and September 2012;

    d. On June 27, 2012, the TSB sterilization cycle temperature was listed as 113° C in QC log (Required temp is 119° - 121° C);

    e. Quarterly autoclave timer calibration stopped in 2012;

    f. One analyst was not performing the minimum required 10% of the monthly microbiological analyses;

    g. Lab pure water QC tests are to be run monthly and recorded in QC log book. No pH data recorded for May 2012;

    h. Thermometers were not calibrated before placing into service; and,

    i. Respondent had never obtained certification from Ohio EPA to perform drinking water compliance monitoring sample analysis utilizing the Colilert-18 (9223-18) method.

15. On September 21, 2012, Ohio EPA sent Respondent the survey results and requested a reply from Respondent by October 15, 2012.

16. On October 12, 2012, Ohio EPA received Respondent's action plan to correct deviations noted in the unannounced microbiological survey of September 12, 2012. On October 14, 2012, additional explanation was requested by Ohio EPA regarding Respondent's action plan. On October 30, 2012, Respondent provided this further explanation.

17. On November 20, 2012, Ohio EPA agreed that Respondent had corrected all deviations from the September 12, 2012 unannounced microbiological survey.

18. Each violation cited above represents a separate violation of ORC § 6109.31.

19. To settle Ohio EPA's claim for civil penalties for the above-referenced violations, the assessment of a penalty pursuant to ORC Chapter 6109, in the amount of eighty two thousand nine hundred and twenty ($82,920.00), was proposed by the Director on January 18, 2013.

20. Ohio EPA has reviewed Respondent's financial documentation and determined that Respondent has the ability to pay forty thousand dollars ($40,000.00) of the $82,920.00 penalty assessed pursuant to ORC Chapter 6109 for the above-referenced violations.

V. ORDERS

1. From the effective date of these Orders, Respondent shall only perform analysis on samples for which the Respondent holds valid and unexpired certification under OAC Chapter 3745-89.

2. From the effective date of these Orders, Respondent shall report the results of samples to Ohio EPA accurately and within the required time frame in accordance with OAC Rule 3745-89-08.

3. From the effective date of these Orders, Respondent shall continue implementation of the action plan used to correct deviations found in the unannounced microbiological survey conducted on September 12, 2012 (Finding # 16), comply with Respondent's Quality Assurance Plan, and comply with all methodology Respondent is certified to perform.

4. Respondent shall pay the amount of forty thousand dollars ($40,000.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6109.

5. In lieu of paying six thousand dollars ($6,000.00) of the civil penalty, Respondent shall within thirty (30) days and one hundred eighty (180) days of the effective date of these Orders, fund a Supplemental Environmental Project (SEP) by making two three thousand dollar contributions to the Ohio EPA's Clean Diesel School Bus Fund (Fund 05CD). Respondent shall tender two official checks made payable to "Treasurer, State of Ohio" for three thousand dollars each. The official checks shall be submitted to Carol Butler, 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 the remaining thirty four thousand dollars ($34,000.00) of the civil penalty, Respondent shall complete a SEP of installing a Laboratory Information Management System (LIMS) according to the following schedule:

    a. Within six (6) months of the effective date of these Orders, Respondent shall have a signed contract with a vendor which documents that the price of the LIMS is equal to or exceeds the amount given for the SEP; and

    b. Within twelve (12) months of the effective date of these Orders, Respondent shall have the LIMS system installed and operational.

7. Should Respondent fail to fund either SEP within the required timeframes set forth in Order # 5 or # 6, Respondent shall pay to Ohio EPA $6,000.00 or $34,000.00, respectively, of the civil penalty within thirty (30) days of the missed due date for that SEP. Payment to Ohio EPA shall be made by official check made payable to "Treasurer, State of Ohio" for the total amount set forth in that Order. The official check shall be submitted to Carol Butler, 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

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 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 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 Respondent. For purposes of these Orders, a responsible official is as 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 the operation of Respondent's laboratory.

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

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

Ohio Environmental Protection Agency
Division of Drinking and Ground Waters
Lazarus Government Building
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Kenneth Baughman

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 AND AGREED:

Ohio Environmental Protection Agency

Scott J. Nally, Director — Date: 7/2/13

IT IS SO AGREED:

TCCI Laboratories, Inc.

Signature — Date: 6-24-13

Printed or Typed Name and Title