

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

<b>Chillicothe Correctional Institute</b>	<b>:</b>	<b><u>Director's Final Findings</u></b>
<b>15802 State Route 104N</b>	<b>:</b>	<b><u>and Orders</u></b>
<b>Chillicothe, OH</b>	<b>:</b>	
<b>45601</b>		

**PREAMBLE**

It is hereby agreed that:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Chillicothe Correctional Institute ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

**II. PARTIES**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership relating to the Chillicothe Correctional Insitute 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 used in ORC Chapter 3704 and the regulations promulgated thereunder.

**IV. FINDINGS OF FACT**

All of the findings necessary for the issuance of these Orders pursuant to ORC §§3704.03 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact.

The Director of the Ohio EPA has determined the following findings of fact:

1. The Ohio Department of Rehabilitation and Correction owns and operates the Chillicothe Correctional Institute ("the facility") which is identified by premise number 0671010104. At the facility, Respondent operates four boilers (identified as emissions units B001-B004). Emissions units B001, B002, B003 and B004 are air contaminant sources as defined in Ohio Administrative Code ("OAC") rule 3745-35-01(B)(1).
2. On May 27, 1999, a Title V permit to operate ("PTO") was issued for the facility. The PTO established an allowable emission rate for particulates of 0.18 pound per million Btu of heat input. Emissions units B001-B004 share a common stack and an electrostatic precipitator for the control of particulate emissions.
3. On November 8, 2000, an emissions test was conducted for emissions units B001-B004 while burning coal. The test results indicate that emissions units B001-B004 were operating at a rate of 0.645 pound of particulates per million Btu heat input, versus the 0.18 pound per million Btu heat input allowable emission rate. This constitutes a violation of OAC rule 3745-17-10 and RC 3704.05(C).
4. On December 14, 2000, Respondent submitted the report for the November 8, 2000 emissions test to Ohio EPA.
5. On January 22, 2001, Ohio EPA's Southeast District Office ("SEDO") sent a letter to Respondent indicating that the test results documented violations of OAC rule 3745-17-10 and the PTO terms and conditions. SEDO also requested that Respondent submit a compliance plan and schedule for demonstrating compliance with the allowable emission rate for particulate emissions from emissions units B001-B004.
6. On February 27, 2001, Respondent met with representatives of the SEDO to discuss the compliance plan and schedule. Respondent indicated that the test was conducted at the rated maximum capacity of 94,400 pounds of steam per hour; however, the facility has never operated the boilers at the rated capacity. SEDO indicated to Respondent that the boilers could be derated in accordance with OAC rule 3745-17-10(B)(3).
7. On March 5, 2001, Respondent submitted a final compliance plan and schedule to Ohio EPA. The plan is to convert the power plant serving the facility to natural gas firing utilizing low NOx burners and to discontinue the use of coal by no later than May of 2003.

8. On July 10, 2002, Respondent submitted PTI applications for the new boilers.
9. On January 2, 2003, Respondent submitted a revised compliance plan and schedule to Ohio EPA.
10. 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 their benefits to the people of the State to be derived from such compliance.

## V. ORDERS

The Director hereby issues the following Orders:

1. Upon receipt of the final PTI for the conversion to natural gas firing with low NOx burners, Respondent shall replace or modify the coal-fired boilers identified as emissions units B001 through B004 in accordance with the following schedule:

<u>ACTIVITY</u>	<u>COMPLETION DATE</u>
a. retain architectural/engineering (consulting) services	November 5, 2001
b. complete preliminary design	April 5, 2001
c. submit plan review and PTI application	July 10, 2002
d. complete design	October 24, 2002
e. obtain construction approvals	November 15, 2002
f. project bid	December 6, 2002
g. contract award	March 15, 2003
h. commence construction	April 15, 2003*
i. complete construction	April 15, 2004
j. achieve & demonstrate compliance w/ OAC rule 3745-17-10 & the PTI thru emissions testing by no later than	June 15, 2004
k. submit test results and PTO application	August 15, 2004

\*after PTI issued as final

Any request for a change in this schedule that will affect the final compliance date shall be submitted in writing for consideration by Ohio EPA.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon completion of the Orders in Section V. of these Orders.

## **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 facility.

## **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. Modification 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 by these Orders, unless otherwise specified in writing, shall be submitted to:

Tammy VanWalsen  
Environmental Supervisor  
Ohio EPA/DAPC  
Lazarus Government Center  
122 S. Front Street  
Columbus, OH 43215

and to:

Kay Gilmer  
Manager  
Ohio EPA/SEDO  
2195 Front Street  
Logan, Ohio 43138

## **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

\_\_\_\_\_  
Christopher Jones  
Director

\_\_\_\_\_  
Date

**IT IS SO AGREED:**

Chillicothe Correctional Institute

\_\_\_\_\_  
By  
Reginald A. Wilkinson  
Director  
Ohio Department of Rehabilitation and Correction

\_\_\_\_\_  
Date