

BEFORE THE OHIO
ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
SEP 25 2006

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

City of Fremont
323 South Front Street
Fremont, Ohio 43420

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Director's Final Findings
and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the City of Fremont ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3753.08 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 the Respondent or of the facility owned by the Respondent 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 3753 and the rules promulgated thereunder.

IV. FINDINGS

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

1. Respondent is a municipal corporation that owns a water treatment plant located at 1113 Tiffin Street in Fremont, Ohio. Chlorine is used to treat water for public consumption. Chlorine is a regulated substance listed in Ohio Administrative Code ("OAC") Rule 3745-104-04 and has a threshold of 2,500 pounds. The quantity of chlorine reported by Respondent in the Risk Management Plan ("RMP") submitted to Ohio EPA on June 22, 1999 is 36,000 pounds.
2. An owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined by OAC Rule 3745-104-02,

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

Dmya Jacks 9-25-06

shall comply with the requirements of this rule by submitting a Risk Management Plan ("RMP") and implementing a prevention program no later than June 21, 1999. On January 3, 2000, Ohio EPA, DAPC received delegation for the RMP program from U.S. EPA.

3. On June 29, 2005, an RMP audit was conducted at the facility by Ohio EPA, DAPC. Five deficiencies were discovered during the inspection.
4. Ohio EPA, DAPC sent a deficiency letter on July 11, 2005 requiring thirty days for compliance. Guidance was enclosed for four of the five deficiencies.
5. A warning letter was sent on November 1, 2005 after no information had been received.
6. On November 9, 2005, a phone call was received from Respondent indicating that the July 11, 2005 deficiency letter has just been received. A request for an extension until December 31, 2005 was granted.
7. An e-mail was received from Respondent on November 15, 2005 formally requesting an extension until January 1, 2006.
8. On January 24, 2006, a request for an extension was granted via e-mail until February 24, 2006.
9. No documentation was received and a warning letter was sent on March 9, 2006, providing seven days for compliance.
10. On March 20, 2006, another e-mail requesting an extension was received by Ohio EPA; however, no date was provided. Ohio EPA replied that the documentation was to be received no later than April 30, 2006 to avoid enforcement action.
11. A fax was received on April 28, 2006 from Respondent and Integrated Safety Services indicating that they would attempt to submit the requested documentation within thirty to forty-five days.
12. Documentation to resolve the deficiencies was received on July 11, 2006; however, the process safety information did not include the chlorine detectors.
13. Documentation on the chlorine detectors was received on July 31, 2006 and no deficiencies remain.
14. The Director has given consideration to, and based on his determination on, evidence relating to the technical feasibility and economic reasonableness of

complying with the following Orders and benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of ten thousand twenty two dollars (\$10,022) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 3753.09. Within fourteen (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for eight thousand eighteen dollars (\$8,018) of the total amount which will be deposited into the Risk Management Plan fund established pursuant to ORC § 3753.05. 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

2. In lieu of paying the remaining two thousand four dollars (\$2,004) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount two thousand four dollars (\$2,004) 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 \$2,004. 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

A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by 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 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 Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Sherri Swihart

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



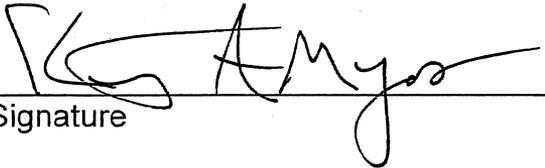
Joseph P. Koncelik
Director

9/15/06

Date

IT IS SO AGREED:

City of Fremont



Signature

9/7/06

Date

KENNETH A. MYERS

Printed or Typed Name

9/7/06

Date

Safety Service Director

Title