OHIO E.P.A.

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ENTERED DIRECTOR'S JOURNAL

BEFORE THE OHIO
ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Sunoco, Inc.
Toledo Refinery
1819 Woodville Road
Oregon, Ohio 43616

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.

By: [signature] Date: 11-12-09

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Sunoco, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3753.01 and 3753.08.

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 identified below 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 Ohio EPA has determined the following findings:

1. Respondent owns and operates an oil refinery with a total of approximately 35,761,000 lbs. of flammable mixtures that contain three to eight flammables in each mixture. Respondent has more than a threshold quantity of a "regulated substance," as defined in OAC Rule 3745-104-01. The Risk Management Plan ("RMP") threshold amount for flammable substances is 10,000 lbs.

2. Pursuant to Ohio Administrative Code ("OAC") Rule 3745-104-02, an owner or operator of a stationary source that has more than a threshold quantity of a regulated

substance in a process, shall comply with the requirements of this Rule by submitting a RMP no later than June 21, 1999. Respondent submitted a RMP in June 1999 as required.

3. On March 12 and 13, 2002, Ohio EPA, Division of Air Pollution Control ("DAPC") inspectors conducted an audit at Respondent's facility and discovered two rule violations. No penalty was assessed, but the Respondent was required to correct the violations and remain in compliance.

4. On April 29 and 30, 2008, the Ohio EPA conducted a five-year inspection at Respondent's facility and discovered four violations of the rules, which included one that was an ongoing violation from the first inspection. The violations were as follows:

   (a) Respondent failed to address several recommendations in the process hazard analysis, in violation of OAC Rule 3745-104-25(E).

   (b) Respondent failed to certify annually that the operating procedures are current and accurate, in violation of OAC Rule 3745-104-26(c). (This is a repeat violation.)

   (c) Respondent failed to correct deficiencies in several pieces of equipment before further use, in violation of OAC Rule 3745-104-28(E).

   (d) Respondent failed to document that compliance audit deficiencies have been corrected, in violation of OAC 3745-104-31(D).

5. On June 19, 2008, the Ohio EPA sent Respondent an e-mail requesting additional mechanical integrity testing documentation that was not reviewed during the audit, and to submit it within ten days.

6. On June 24, 2008, and on July 8, 2008, Susan Behr and Richard Vogel, respectively, said per a telephone call, that the documentation would be sent within the week.

7. On July 8, 2008, the documentation had not been received so the Ohio EPA auditor sent a deficiency letter to Respondent requesting the same documentation and requiring Respondent to correct the four deficiencies addressed in Finding 4 above within ten days of receipt of the letter.

8. On July 24, 2008, Ohio EPA received partial documentation from Respondent.

9. On August 13, 2008, the Ohio EPA auditor sent a warning letter to Respondent requesting the remaining required documentation.

10. On August 25, 2008, the Ohio EPA auditor sent an extension letter as requested by Respondent, requiring the remaining documentation to be sent by September 22, 2008.

11. On September 25, 2008, the Ohio EPA received some additional documentation, but the several deficiencies still remain.

12. On December 23, 2008, Ohio EPA issued proposed Findings and Orders to Respondent.

13. On March 18, 2009, Ohio EPA met with Respondent to resolve the violations, and it was decided more documentation was required to be submitted.

14. On April 27, 2009, Respondent submitted a response to address and provide the additional required documentation requested during the March 18, 2009 meeting.

15. At this time, the following summarizes the status of the remaining, unresolved violations.

    (a) Process Hazard Analysis (PHA) (Rule 3745-104-25(E))

    PHA item 0503.2.1.1 is still in progress. The task due date was April 28, 2007. PHA item 0501.13.1.1 is still pending approval. The due date was April 27, 2008. HAZ0337.08 and 0365.08 are still in progress. Their due date was December 15, 2006. Further unresolved recommendations for corrective actions that were due to be completed in 2008, including pressure relief devices in Plant 6 that are not sized properly, the external fire cases for butane spheres 28 and 29 that are undersized, and the lack of a deluge.

    (b) Mechanical Integrity (Rule 3745-104-28(E))

    The internal and external ten-year inspections have been conducted for spheres 24, 25, 28 and 29. All of these sphere inspections contain various recommendations for corrective actions that have not been addressed. Also the pressure relief valves on all of the covered processes have not been inspected every five years as required.

    (c) Compliance Audit (Rule 3745-104-31(D))

    PM1, has a resolved date of June 2007, but the last line of the resolution summary indicates that this item is not resolved. PM14, pertaining to completing the PHA recommendations (Finding 4(a)), is still not completed and was due in 2007. PM6 pertaining to Finding 4(c), has not been completed and was due in 2007.

16. ORC § 3753.06 prohibits violations of provisions of ORC Chapter 3753 or any rule adopted or issued under it. From April 2008 (the five-year compliance audit) to the present, Respondent violated rules adopted under ORC Chapter 3753, specifically, the rules cited in Finding 4.

17. 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. For the process hazard analysis (Rule 3745-104-25(E)):
By December 31, 2009, Respondent shall complete PHA item 0503.2.1 and PHA item 0501.13.1.1; and HAZ0337.08 and HAZ 0365.08 as described in Finding 15(a) and submit documentation to verify that all of the recommended corrective actions have been completed. Respondent shall develop a written schedule to complete all of the further unresolved recommendations for corrective actions that were due to be completed in 2008, including pressure relief devices in Plant 6 that are not sized properly, the external fire cases for butane spheres 28 and 29 that are undersized and that lack a deluge as described in Finding 15(a), and submit documentation to verify that all of the recommended corrective actions have been completed.

2. For the mechanical integrity (Rule 3745-104-28(E)):
By June 30, 2010, Respondent shall correct the deficiencies in the equipment as required in the butane sphere inspection reports, and submit documentation that verifies this has been completed. Also, by December 31, 2009, Respondent shall inspect the remaining relief valves that were not inspected by their due dates and submit documentation to verify the inspections were completed.

3. For the compliance audit (Rule 3745-104-31(D)):
By December 31, 2009, Respondent shall resolve the compliance audit findings identified in Finding 14(c) and submit documentation to show how the items were resolved. Also by November 15, 2009, submit a copy of the 2009, internal PSM compliance audit with recommendations.

4. Pursuant to ORC § 3753.09, Respondent is assessed a civil penalty in the amount of thirty-two thousand two hundred fifty dollars ($32,250) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of twenty-five thousand eight hundred dollars ($25,800) in settlement of Ohio EPA's claims for civil penalties, which will be deposited into the Risk Management Plan fund established pursuant to ORC

State of Ohio" for $25,800. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, attention Brenda Case, 50 West Town Street, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the facility.

5. In lieu of paying the remaining six thousand four-hundred fifty dollars ($6,450) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $6,450 to the Ohio EPA's fund for the Clean Diesel School Bus Program (Fund 5CD0). Respondent shall make payment within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for $6,450. The official check shall be submitted to Brenda Case, together with a letter identifying the Respondent, the facility, and Fund 5CD0, to the above-stated address.

6. 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
50 West Town St., Suite 700
P. O. Box 1049
Columbus, Ohio 43216

7. Should Respondent fail to fund the SEP within the required time frame set forth in Order 5, Respondent shall immediately pay to Ohio EPA $6,450 of the civil penalty in accordance with the procedures in Order 4.

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 Air Pollution Control 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.

This 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 a "facility official" who is in charge of a principal business function of Respondent.

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 the 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:

Kimberly Joseph
Ohio Environmental Protection Agency
DAPC
50 West Town St., Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

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

Chris Korleski
Director

11/6/08
Date

IT IS SO AGREED:

Sunoco, Inc.

Kevin Robles
Signature

11/5/09
Date

KEVIN ROBLES
Printed or Typed Name

VP, REFINING EXCELLENCE
Title