OHIO E.P.A.

AUG 13 2010

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Severstal Wheeling, Inc 1134 Market Street Wheeling, West Virginia 45209	:	Director's Final Findings and Orders
Mingo Junction Energy Center, LLC 150 South Wacker Drive Suite 2950 Chicago, Illinois 60606	:	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: _____ Date: 8/13/2010

PREAMBLE

The parties agree as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Severstal Wheeling, Inc. ("Respondent Severstal") and Mingo Junction Energy Center, LLC ("Respondent Energy Center," and, collectively, "Respondents") pursuant to the authority vested in the Director ("the Director") of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and successors in interest liable under Ohio law. No change in ownership of Respondents or of the facility (as hereinafter identified) shall in any way alter Respondents' obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meanings as defined in ORC Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS

The Director makes the following findings:

1. Respondent Energy Center owns a facility ("the Co-Generating Facility") located in Mingo Junction, Ohio that produces electricity and steam. The Co-Generation Facility is located on Respondent Severstal's property and is operated on behalf of Respondent Severstal. The Co-Generation Facility is included as air containment source in Respondent Severstal's Title V Operating Permit issued by Ohio EPA.

2. In the manufacture of iron in blast furnaces, Respondent Severstal has generated blast furnace gas that has been and can be used as fuel in four large boilers at the Co-Generation Facility. The four boilers are used in the production of electricity and steam.

3. In the manufacture of coke, Respondent Severstal generates coke oven gas that has been and can be used to fuel several sources, including the coke ovens and reheat furnaces that heat large steel slabs so that the steel can be rolled.

4. Diminished steel production caused Respondent Severstal to idle the blast furnace and reheat furnaces. In light of the idling of a source of fuel (blast furnace gas) for the Co-Generation facility and the idling of a user (the reheat furnaces) of coke oven gas that would otherwise have to be wasted by being burned in a flare (that is subject to coke oven gas volume limitations), and in light of the opportunity to resume full scale coke production, Respondents wish to use coke oven gas to fuel the boilers at the Co-Generation Facility, instead of using the gas in the reheat furnaces or diverting the gas to the flare.

5. Each of the four boilers at the Co-Generation Facility is an "air contaminant source" as defined in OAC Rule 3745-31-01(I) and a "stationary source" as defined in OAC Rule 3745-31-01(RRRRR). Those sources are subject to the requirements of permit-to-install (PTI) #06-06309 and a Title V Operating Permit, both issued by the Director to Respondent Energy Center pursuant to ORC Chapter 3704. Those sources are also included in Respondent Severstal's Title V Operating Permit.

6. In PTI #06-06309, each of the four boilers is described as a "180 MMBtu/hr boiler fired with natural gas and/or clean blast furnace gas." A change in the fuel type to allow the burning of coke oven gas in any of the boilers is a "change in the method of operation of" an air contaminant source that results in an increase in the allowable emissions and is, therefore, a "modification" as that term is defined in OAC Rule 3745-31-01(QQQ).

7. OAC Rule 3745-31-02(A)(1) provides that "except as provided in rule 3745-31-03 of the Administrative Code, no person shall . . . cause, permit, or allow the

modification of an air contaminant source, without first obtaining a permit-to-install from the director." OAC Rule 3745-31-02 is a rule issued under ORC Chapter 3704. ORC § 3704.05(G) prohibits any person from violating any order, rule, or determination of the Director issued, adopted or made under ORC Chapter 3704.

8. In April of 2009, at the request of Respondent Severstal, the Director authorized pursuant to OAC Rule 3745-31-03 a temporary exemption for Respondent Severstal from the requirement to obtain a PTI for the modification. The exemption was issued to allow Respondent Severstal to test the feasibility of, and assess the air quality impacts from, the burning of desulfurized coke oven gas in the boilers at the Co-Generation Facility.

9. In May 2009, Respondent Energy Center submitted an application for a modification of PTI #06-06309 to install new low-NOx burners in two boilers at the Co-Generation Facility to allow full capacity usage of coke oven gas in those two boilers at the Co-Generation Facility. Following some earlier versions, in February 2010, Respondent revised its application to request usage of coke oven gas in all four boilers at the Co-Generation Facility, including those boilers in which new burners were not being installed. That application, and revisions to the application, were being reviewed by Ohio EPA.

10. On December 21, 2009, at the request of Respondent Severstal, the Director authorized pursuant to OAC Rule 3745-31-03 a second temporary exemption for Respondent Severstal from the requirement to obtain a PTI for the modification. This exemption was issued to allow Respondent Severstal to burn desulfurized coke oven gas in the boilers in order to investigate and evaluate other boiler efficiency-related improvements and facility operating practices associated with the delivery of the desulfurized coke oven gas to the boilers at the Co-Generation Facility.

11. Respondents also requested permission to install a new low-NOx burner in one of the boilers pending a decision on the PTI application for the two new low-NOx burners that was submitted in May 2009. The installation was a modification of the boiler. On January 8, 2010, at the request of Respondents, the Director authorized pursuant to OAC Rule 3745-31-03 a third temporary exemption for Respondents from the requirement to obtain a PTI for a modification. This exemption was issued to allow Respondents to burn desulfurized coke oven gas in the boiler with the new burner, in addition to the other boilers, in order to evaluate the effectiveness of the new low-NOx burner, the emission rate of the new burner, and various production issues.

12. The third of the temporary exemptions expired on or about March 26, 2010. As of that date, Respondents may not cause, permit, or allow the modification of operations (in the form of the burning of desulfurized coke oven gas in any boiler, including any boiler with a new low-NOx burner) at the Co-Generation Facility without a PTI or new exemption authorizing them to do so. As of that date, Respondents do not have a PTI or any exemption authorizing them to burn desulfurized coke oven gas in any boiler, including any boiler with a new low-NOx burner.

13. Beginning on March 26, 2010, Respondents have continued to burn desulfurized coke oven gas in the boilers at the Co-Generation Facility in violation of OAC Rule 3745-31-02(A)(1) and ORC § 3704.05(G). Respondents have also proceeded to install the second new low-NOx burner identified in the permit application, in violation of OAC Rule 3745-31-02(A)(1) and ORC §3704.05(G). Respondents state that if they are not permitted to continue to burn desulfurized coke oven gas in the boilers, install the second new low-NOx burner, and be able to use full capacity of coke oven gas in all of the Co-Generation Facility boilers, full production at the coke ovens will not be possible. This will result in lost revenue and jobs, possible shutdown of facilities, and potentially significant adverse economic impact on the companies and community. In addition, since the excess coke oven gas would have to be flared, the associated heat content would be wasted.

14. On March 30, 2010, Director's Final Findings and Orders were issued to the Respondents pursuant to the authority vested in the Director of the Ohio EPA under ORC §§ 3704.03 and 3745.01. The Final Findings and Orders required either Respondent or both, by no later than August 15, 2010, to obtain a PTI authorizing either or both of them to burn desulfurized coke oven gas in any boiler, including the boilers with the new burners, at the Co-Generating Facility, or cease burning any fuel other than natural gas or clean blast furnace gas in any boiler, including the boilers with the new burners, at the Co-Generating Facility. The Final Findings and Orders also required the Respondents to restrict the total amount of coke oven gas that can be burned by all users at the stationary source (21,112,050 thousand cubic feet of coke oven gas per rolling, 12-month period) and to pay a civil penalty of fifteen thousand dollars ($15,000) in settlement of Ohio EPA's claims for civil penalties pursuant to ORC § 3704.06.

15. In weekly calls and meetings held since February of 2010, the Ohio EPA's and Respondent Severstal's technical staffs have exchanged information and evaluated permitting options, both major and minor, that would provide the basis for Respondent Severstal to submit a revised PTI application that satisfies the applicable permitting requirements. The Ohio EPA and Respondent Severstal have agreed to use a recent U.S. EPA/Region III-approved New Source Review evaluation approach to determine whether the fuel substitution in the boilers at the Co-Generation Facility would result in a major modification due, in part, to a significant emissions increase, as specified in OAC rule 3745-31-01(JJJ)(1). As part of the U.S. EPA-approved evaluation approach, the technical staffs are concurrently confirming the baseline actual to projected actual emissions levels for the project. In addition to the evaluation of the project's emissions levels, the Ohio EPA is currently working on the draft permit terms and conditions for the affected emissions units while Respondent Severstal is completing the revisions to the PTI application for this project.

Progress has been made in reaching an agreed upon approach for resolving this matter; however, the requirement imposed by the Director's Final Findings and Orders issued on March 30, 2010, for either Respondent or both to obtain a PTI authorizing either or both of them to burn desulfurized coke oven gas in any boiler at the Co-Generating

Facility or cease burning any fuel other than natural gas or clean blast furnace gas in any boiler by no later than August 15, 2010, cannot be met. As such, it will be necessary to provide additional time for both parties to complete the agreed upon permitting process.

16. These Director's Final Findings and Orders supersede the Final Findings and Orders issued to Severstal Wheeling, Inc. and Mingo Junction Energy Center, LLC on March 30, 2010.

17. 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 relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby orders:

1. By no later than January 15, 2011, Respondents shall obtain and achieve compliance with an appropriate PTI modification authorizing them to burn desulfurized coke oven gas in all boilers, including the boilers with the new low-NOx burners, at the Co-Generation Facility, or shall cease burning any fuel other than natural gas or clean blast furnace gas in any Co-Generation Facility boiler, including the boilers with the new low-NOx burners, at the Co-Generation Facility. The total amount of coke oven gas that can be burned by all users at the stationary source, comprised of the four boilers at the Co-Generation Facility, the Mingo Junction reheat furnaces 2, 3 and 4 (P006-P008), Coke Batteries 1, 2, 3 and 8 (W.Va. P001-P004), the excess coke oven gas flare (W.Va. P024-1), and Boilers 6 to 10 (W.Va. P017 to P020), shall not exceed, in aggregate, the existing standard of 21,112,050 thousand cubic feet of coke oven gas, based upon a rolling, 12-month summation of the coke oven gas usage rates.

2. Pursuant to ORC § 3704.06, Respondents are assessed an additional civil penalty of fifteen thousand dollars ($15,000) in settlement of Ohio EPA's claims for civil penalties. Within thirty (30) days after the effective date of these Orders, Respondents shall pay Ohio EPA twelve thousand dollars ($12,000) of the total penalty amount. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for $12,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of the check 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

3. In lieu of paying the remaining three thousand dollars ($3,000) of the additional civil penalty to Ohio EPA, Respondents shall fund the supplemental environmentally beneficial project ("SEP") identified in Order 4. In the event Respondents default or otherwise fail to complete the SEP as specified in Order 4, the $3,000 for the SEP shall immediately become due and payable to Ohio EPA. Such payment shall be made by an official check made payable to "Treasurer, State of Ohio" and sent to Brenda Case, or her successor, together with a letter identifying the Respondents, to the above-stated address. A copy of the check shall be sent to James A. Orlemann, or his successor, at the above-stated address.

4. Respondents shall fund a SEP by making a contribution of three thousand dollars ($3,000) to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondents shall make payment within thirty (30) days after the effective date of these Orders by an official check made payable to "Treasurer, State of Ohio" for $3,000. The official check shall specify that such monies are to be deposited into Fund 5CD0 established by Ohio EPA for the Clean Diesel School Bus Program. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents and Fund 5CD0, to the above-stated address. A copy of this check also shall be sent to James A. Orlemann, or his successor, at the above-stated address.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have 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 Respondents of the obligations that have not been performed, in which case Respondents 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 Respondents to Ohio EPA and shall be signed by a responsible official of each Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-77-01(GG)(1) for a corporation or a

duly authorized representative of each Respondent as that term is defined in the above-referenced rule.

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 Respondents' 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 Respondents.

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 Respondents, or either of them, pursuant to these Orders shall be addressed to:

Southeast District Office
Ohio Environmental Protection Agency
2195 Front Street
Logan, Ohio 43138
Attention: Bruce Weinberg

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Thomas Kalman, Manager, Enforcement Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondents 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, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for the Respondents' liability for the violations specifically cited herein.

Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondents waive any and all rights Respondents may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and the Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents shall continue to comply with these Orders notwithstanding such appeal and intervention unless said 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.

ORDERED AND AGREED:

Ohio Environmental Protection Agency

8/13/10

Chris Korleski
Director

Date

AGREED:

Severstal Wheeling, Inc.

8/12/10

Signature

Date

Bud E. Smith
Printed or Typed Name

Director, Environmental Control
Title

AGREED:

Mingo Junction Energy Center, LLC

08/12/10

Signature

Date

Thomas H. Shepard
Printed or Typed Name

President
Title