

OHIO E.P.A.

JUL 13 2011

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

POET Biorefining - Leipsic : Director's Final Findings
 3875 State Route 65 : and Orders
 Leipsic, Ohio 45856 :

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to POET Biorefining - Leipsic ("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 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 or of Respondent's Facility (as hereinafter defined) 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 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a facility (Facility ID 0369000051) located at 3875 State Route 65, Leipsic, Putnam County, Ohio ("Facility"). The Facility receives, mills, and ferments corn to produce denatured ethanol.

2. On December 5, 2006, Ohio EPA issued permit-to-install ("PTI") 03-17156 to Respondent, which was administratively modified on May 29, 2008 and re-issued as PTI 03-17416. The terms and conditions of PTI 03-17416 contain applicable emission limitations and operational control and reporting requirements for emissions units

of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: Jerry Lassiter Date: 7-13-11

("EUs") B001 and B002 (two 143 million Btu per hour natural gas-fired boilers with low nitrogen oxide ("NOx") burners), P901 (grain receiving, transferring, conveying and storage) and P902 (DDGS loadout). The EUs listed in PTI 03-17416 are "air contaminant sources" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X). The terms and conditions of PTI 03-17416 require Respondent to comply with 40 CFR Part 60 [Standards of Performance for New Stationary Sources ("NSPS")] for EUs B001 and B002. EUs B001 and B002 are subject to Subpart Db (Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units). For EUs B001 and B002, Respondent was required to install continuous emission monitoring systems ("CEMS") for nitrogen oxides ("NOx") and certify the systems no later than 180 days after initial startup of these EUs.

3. On January 21, 2008, Respondent started operation of EUs B001 and B002; therefore, the CEMS was required to be installed and certified no later than July 19, 2008.

4. On June 3 and 4, 2008, Respondent conducted compliance stack tests for EUs B001 and B002. EUs B001 and B002 were operating at 70% of their maximum capacity.

5. On August 4, 2008, Respondent sent Ohio EPA an email stating that Respondent was planning on installing a Predictive Emission Monitoring System ("PEMS") in lieu of a CEMS system for EU B001 and B002. Respondent stated that based upon its understanding, use of a PEMS in the design of the Facility would be in compliance with 40 CFR Part 60 Subpart Dd.

6. By letter dated August 8, 2008, Ohio EPA notified Respondent that, for EUs B001 and B002, Respondent failed to install, operate and maintain a CEMS and conduct the required certification tests for the CEMS within 180 days of startup, in violation of the terms and conditions of PTI 03-17416 and ORC § 3704.05(C). In addition, Ohio EPA notified Respondent it needed to submit the PEMS plan to the U.S. Environmental Protection Agency ("USEPA") for approval.

7. On August 11, 2008, Respondent submitted a request to US EPA to use a PEMS in lieu of a CEMS at the Facility. On August 14, 2008, Ohio EPA received a similar request from Respondent. In its August 14, 2008 letter to Ohio EPA, Respondent also requested an extension to the 180-day CEMS certification requirement, even though Respondent was already past the deadline for the installation and certification of the CEMS.

8. By letter dated October 3, 2008, Ohio EPA notified Respondent that it had failed to submit its 2007 Synthetic Minor Title V Fee Emission Report which was due by June 6, 2008, in violation of OAC Rule 3745-78-02 and ORC § 3704.05(G). On November 7, 2008, Respondent submitted the report.

9. On December 4, 2008, Respondent received approval from USEPA to use PEMS instead of a CEMS for EUs B001 and B002 at the Facility.

10. On January 13, 15 and 16, 2009, Respondent conducted compliance stack tests at the Facility. On January 31, 2009, Respondent submitted, to Ohio EPA, an application to modify the NO_x limits for EUs B001 and B002 and establish synthetic minor limitations for the NO_x emissions. By letter dated February 27, 2009, Ohio EPA issued Respondent a summary letter regarding the stack test results.

11. On June 22, 2009, Ohio EPA issued Permit to Install and Operate ("PTIO") P01054429 which modified the NO_x limit for EUs B001 and B002 and established synthetic minor limitations for the NO_x emissions.

12. On June 29, 2009, Ohio EPA received the certification test reports for both PEMS from Respondent.

13. On July 8, 2009, Ohio EPA conducted an inspection at the Facility and determined that Respondent had:

a. For EUs P901 and P902, failed to perform daily checks for visible fugitive particulate emissions from the egress points serving these EUs, in violation of PTI 03-17416 and ORC § 3704.05(C); and

b. Failed to submit the first quarter deviation report by April 30, 2009, in violation of PTI 03-17416 and ORC § 3704.05(C). Respondent submitted this report on July 8, 2009.

14. By letter dated July 29, 2009, Ohio EPA notified Respondent of the violations referenced in Finding No. 13 of these Orders. By letter dated August 21, 2009, Respondent submitted a response to Ohio EPA's notice of violation letter dated July 29, 2009. Respondent claims the missing report had been prepared, but had not been timely submitted to Ohio EPA electronically.

15. By letter dated August 28, 2009, Ohio EPA notified Respondent that the PEMS for EUs B001 and B002 had been certified.

16. Respondent subsequently submitted documentation that records of daily checks for visible fugitive particulate emissions were maintained for EUs P901 and P902. Ohio EPA agreed to accept this documentation as evidence that the daily checks were performed. Therefore, the violations alleged in Finding 13.a. have been retracted.

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 issues the following Orders:

1. Respondent shall pay the amount of seven thousand dollars (\$7,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) 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 five thousand six hundred dollars (\$5,600) of the total amount. 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
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining one thousand four hundred dollars (\$1,400) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$1,400 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$1,400. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

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

Ohio EPA
Division of Air Pollution Control
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$1,400 of the civil penalty in accordance with the procedures in Order 1.

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, operations by Respondent.

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
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attn: Mark Budge

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Thomas Kalman

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

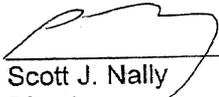
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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.

ORDERED AND AGREED:

Ohio Environmental Protection Agency



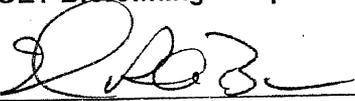
Scott J. Nally
Director

7/12/11

Date

AGREED:

POET Biorefining - Leipsic



Signature

5 July 11

Date

Mark A Bowen

Printed or Typed Name

General Manager

Title