BEFORE THE OHIO

OHIO E.P.A.

MAR 13 2012

ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Pilot Chemical Company of Ohio 606 Shepherd Drive Lockland, Ohio 45215	: : :	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 Dana Lasseter Date: 3/13/12

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Pilot Chemical Company of Ohio ("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 makes the following findings:

1. Respondent produces detergent grade sulfonic acid, synthetic detergents, surfactants and emulsifiers through batch sulfonation and neutralizer systems for use in the industrial and institutional markets. Respondent has more than a threshold quantity of a "regulated substance," namely sulfur dioxide and sulfur trioxide, as defined in OAC Rule 3745-104-01. The Risk Management Plan ("RMP") threshold amount for sulfur dioxide and sulfur trioxide is 5,000 and 10,000 pounds, respectively.

2. Sulfur trioxide and sulfur dioxide are regulated substances listed in Ohio Administrative Code ("OAC") Rule 3745-104-04. 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, shall comply with the requirements of OAC Rules 3745-104-06 through 49, where applicable, by submitting a Risk Management Plan ("RMP") and implementing a prevention program no later than June 21, 1999 or no later than when the threshold limit is exceeded in a process. On January 3, 2000, Ohio EPA, DAPC received delegation for the RMP program from U.S. EPA.

3. Sulfur trioxide has a threshold of 10,000 pounds and sulfur dioxide has a threshold of 5,000 pounds. Respondent stores both regulated substances in an amount that exceeds the threshold established in OAC Rule 3745-104-04; and, as a result, Respondent is subject to the RMP requirements detailed in OAC Rule 3745-104-06.

4. An initial RMP audit was conducted by Ohio EPA on October 6, 2004. The following seven deficiencies were discovered during the audit:

   (a) Respondent failed to maintain documentation for the worst case and alternative release scenarios, in violation of OAC Rule 3745-104-15.
   (b) Respondent failed to establish a system to promptly address recommendations from the process hazard analysis (PHA), in violation of OAC Rule 3745-104-25(E).
   (c) Respondent failed to annually certify that operating procedures are current and accurate, in violation of OAC Rule 3745-104-26(C).
   (d) Respondent failed to provide refresher training to employees involved in operating the process at least every three years, in violation of OAC Rule 3745-104-27(B).
   (e) Respondent failed to ensure the frequency of inspections and tests of process equipment is consistent with applicable manufacturer's recommendations, good engineering practice and prior operating experience, in violation of OAC Rule 3745-104-28(D)(3).
   (f) Respondent failed to train employees after modifications to the process, in violation of OAC Rule 3745-104-30(B)(5).
   (g) Respondent failed to document an appropriate response to each of the findings from the RMP audit, in violation of OAC Rule 3745-104-31(D).

5. Respondent submitted documentation dated November 24, 2004, in response to the October 20, 2004 deficiency letter sent by Ohio EPA. A completion letter was issued to the facility on December 3, 2004.

6. On March 24, 2011, Ohio EPA conducted the second five-year RMP audit at Respondent's facility and discovered four violations of the rules. Three were repeat violations from the initial RMP audit in 2004. The violations were as

follows:

(a) Respondent failed to include in the process safety information, documentation on the gas detectors, in violation of OAC Rule OAC 3745-104-24(D)(1)(h).
(b) Respondent failed to promptly address findings and recommendations from the PHA, in violation of OAC Rule 3745-104-25(E). This is a repeat violation.
(c) Respondent failed to annually certify that operating procedures are current and accurate, in violation of OAC Rule 3745-104-26(C). This is a repeat violation and cannot be remedied until the procedures are required to be reviewed in 2012.
(d) Respondent failed to provide refresher training at least every three years to employees involved with the process, in violation of OAC Rule 3745-104-27(B). This is a repeat violation.

7. A deficiency letter was mailed to Respondent on March 24, 2011. Respondent submitted documentation on April 25, 2011, regarding resolution of the deficiencies in Finding 6(a). According to the facility's response, Findings 6(b) and (d) were scheduled to be resolved in October 2011. This includes updating piping and instrument diagrams, which is a recommendation from the 2006 process hazard analysis, and providing refresher training. As of the date of writing of these F&Os, documentation has not been submitted to Ohio EPA to resolve these deficiencies.

8. ORC § 3753.06 prohibits violations of provisions of ORC Chapter 3753 or any rule adopted under it. Respondent violated rules adopted under ORC Chapter 3753, specifically, the rules cited in Finding 6, in violation of ORC § 3753.06.

9. The Director has given consideration to, and based his determination on, evidence related 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. By no later than fourteen (14) days after the effective date of these Orders, Respondent shall submit adequate documentation to the Ohio EPA that verifies that the deficiencies in Findings 6(b) and (d) have been corrected.

2. Pursuant to ORC § 3753.09, Respondent shall pay the amount of twenty-one thousand two hundred and fifty dollars ($21,250) in settlement of Ohio EPA's claim for civil penalties. 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 seventeen thousand dollars ($17,000) 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

3. In lieu of paying the remaining four thousand two hundred and fifty dollars ($4,250) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $4,250 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 $4,250 within fourteen (14) days after the effective date of these Orders. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondent, the facility, and fund 5CD0, to:

   Ohio EPA
   Office of Fiscal Administration
   Lazarus Government Center
   50 West Town Street, Suite 700
   Columbus, Ohio 43216-1049

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

   Ohio EPA
   Division of Air Pollution Control
   Lazarus Government Center
   50 West Town Street, Suite 700
   Columbus, Ohio 43216-1049

5. Should Respondent fail to fund the SEP within the required time frame set forth in Order 3, Respondent shall immediately pay to Ohio EPA $4,250 of the civil penalty in accordance with the procedures in Order 2.

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.

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 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 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.

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Scott J. Nally
Director

3/9/12
Date

AGREED:

Pilot Chemical Company of Ohio

Signature

2/17/2012
Date

Matthew J. Leary
Printed or Typed Name

EHS&S Manager
Title