

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Ohio Power Company dba : **Director's Final Findings**
American Electric Power : **and Orders**
1 Riverside Plaza :
Columbus, Ohio :

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Ohio Power Company d.b.a. American Electric Power ("AEP")(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 the facility 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 has determined the following findings:

1. The General James M. Gavin Power Plant ("Gavin") (facility identification #0627010056) is located in Cheshire, Gallia County, Ohio. The owner and operator (AEP) is headquartered at 1 Riverside Drive, in Columbus, Ohio.

2. Gavin is an electric generating facility. AEP operates two 11,936 million British thermal units (Btu) per hour coal-fired boilers at the facility. These units are designated as Units 1 (emissions unit B003) and 2 (emissions unit B004), both of which are equipped with an electrostatic precipitator and sulfur dioxide ("SO₂") scrubber. Additionally, AEP operates lime handling and fly ash handling

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systems, designated by Ohio EPA as emissions units F004 and F005. Each of the emissions units is an "air contaminant source" as defined by Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (W).

3. Particulate emissions from B003 and B004 are controlled by the electrostatic precipitators and are subject to the particulate emission limitation in OAC Rule 3745-17-10. Particulate emissions from F004 and F005 are controlled by enclosures with ventilation to fabric filters at the silos.

4. On May 17, 2000, Commercial Testing and Engineering Company ("CT&E") conducted a particulate emissions compliance test for emissions unit B003. The results of the test showed emissions in excess of the limitation specified in OAC Rule 3745-17-10. On June 26, 2000, Ohio EPA issued a Notice of Violation ("NOV") to AEP that required the submittal of a compliance plan and schedule within 30 days of receipt of the NOV. On July 28, 2000, AEP submitted a written response to the NOV providing additional information regarding AEP's ongoing investigation of the May 17, 2000 test conditions and source operating conditions, as well as a schedule for retesting the emissions unit.

5. OAC Rule 3745-17-10 specifies an allowable particulate emission rate for emissions unit B003 of 0.10 pound per million Btu of actual heat input. The tested particulate emission rate from emissions unit B003 was reported to be 0.11 lb per million Btu of actual heat input.

6. In the time between the May 17, 2000 particulate emission test and the August 8, 2000 particulate emission test, AEP made adjustments to the scrubber serving emissions unit B003. These adjustments included unplugging the mist eliminators, the mist eliminator spray wash nozzles, and the absorber outlet liquid collection devices.

7. AEP retested emissions unit B003 on August 8, 2000. The tested particulate emission rate for emissions unit B003 was reported to be 0.015 lb per million Btu of actual heat input.

8. On September 12, 2000, representatives from AEP met with SEDO representatives to discuss the stack test of May 17, 2000, and describe the findings from their investigation, including the possibility that the results were influenced by corrosion of the test probe.

9. PTI #06-3146 issued on August 12, 1992, for emissions units F004 and F005 and the Title V permit issued on January 30, 2002, for the facility contain a requirement that "fugitive emissions from conveying, transfer points, mixing, and storage of fly ash shall be collected sufficiently to eliminate visible particulate emissions to the extent possible with good engineering design, and vented to control equipment designed to meet 0.030 grain/dscf of exhaust gases from the stack(s) or no visible emissions."

10. On August 1, 2001, a representative from SEDO observed excessive emissions of fly ash from the top of Unit #1 fly ash silo at the Gavin facility. The emissions of fly ash continued for approximately 45 minutes and exceeded the limitations in the term and condition in PTI #06-3146, since fly ash was not being collected sufficiently to eliminate visible emissions to the extent possible with good engineering design, in violation of ORC § 3704.05(G).

11. On September 9, 2001, SEDO was informed, by citizens, of another fly ash leak that had occurred at the Gavin facility on September 8, 2001. SEDO was provided photographs by citizens to substantiate their claims.

12. OAC Rule 3745-15-06(B)(1) requires that if any emission source, air pollution control equipment, or related facility breaks down in such a manner as to cause the emission of air contaminants in violation of any applicable law, that the person responsible for that equipment shall immediately notify Ohio EPA.

13. On September 11, 2001, a representative of SEDO performed an inspection of the fly ash handling system at the Gavin facility. During the inspection, a leak was observed in one of the fly ash transport lines, and another was observed in the flange at the top of Unit #1 fly ash silo. Review of daily records kept at the facility indicated several other leaks had occurred between September 7, 2001, and September 10, 2001. Between August 1, 2001, and January 2, 2002, SEDO documented 12 separate occasions during which leaks occurred from emissions units F004 and F005 at the Gavin facility and were not reported in accordance with the term and condition in PTI #06-3146 and OAC Rule 3745-15-06(B)(1), in violation of such provisions and ORC § 3704.05(C) and (G).

14. By letter dated October 11, 2001, AEP was informed of the unreported leaks observed or documented by Ohio EPA and, pursuant to OAC Rule 3745-15-06(D), was required to submit, within 15 days, a preventative maintenance and malfunction abatement plan ("PMMAP"), to address the leaks from the fly ash handling systems.

15. By letter dated November 5, 2001, AEP responded to the October 11, 2001 letter and provided Ohio EPA with a compliance schedule which outlined the steps AEP had already taken, and had scheduled, in order to improve the operation of the fly ash handling and storage systems. AEP informed Ohio EPA that it had begun to develop the PMMAP and expected to submit it to Ohio EPA, for review, by November 21, 2001. The PMMAP was received by SEDO on November 19, 2001.

16. On December 27, 2001, AEP was issued an NOV for violations of OAC Rule 3745-15-06. From the date that the PMMAP was received by SEDO, until December 27, 2001, SEDO was made aware of approximately 20 separate occurrences of leaks in the fly ash handling and storage systems. AEP was instructed to submit and implement a revised PMMAP. Deficiencies in the November

19, 2001, PMMAP were outlined. A response was requested within 15 days. AEP submitted the revised PMMAP by letter dated January 23, 2002.

17. On December 27, 2001, AEP was issued an NOV for failure to conduct a particulate emission test on emissions units B003 and B004 no more than 12 months prior to the expiration of the state operating permits issued for the units on July 7, 1995. No compliance tests were conducted on emission units B003 and B004 pursuant to the terms and conditions of the state operating permits, in violation of ORC § 3704.05(C). AEP submitted a response to the NOV dated January 25, 2002, detailing the history of other particulate emission testing performed on the units, including tests performed before and after the issuance of the 1995 state operating permits.

18. AEP was issued a Title V permit, in accordance with OAC Chapter 3745-77, on January 30, 2002. The Title V permit included a requirement that fugitive emissions from conveying, transfer points, mixing and storage of fly ash shall be collected sufficiently to eliminate visible particulate emissions to the extent possible with good engineering design, and vented to control equipment designed to meet 0.030 grain/dscf of exhaust gas or no visible emissions.

19. Up until June 2002, SEDO continued to receive reports of leaks from emissions units F004 and F005 from staff at the Gavin facility. Between September 7, 2001, and June 27, 2002, approximately 60 reported leaks have been documented by SEDO that occurred on 47 separate days. On several days there were more than one leak during that day. Proper implementation of the amended PMMAP appears to have addressed the issue of leaks from the fly ash handling systems at Gavin since June 27, 2002.

20. The frequency of reported leaks indicates that AEP did not implement measures to collect fly ash sufficiently to eliminate visible particulate emissions to the extent possible with good engineering practice, as required by PTI # 06-3146, and ORC § 3704.05(C).

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

V. ORDERS

The Director hereby issues the following Order:

Pursuant to R.C. 3704.06, AEP is assessed a civil penalty in the amount of forty thousand dollars (\$40,000) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days after the effective date of these Orders, AEP shall pay to

Ohio EPA the amount of thirty-two thousand dollars (\$32,000) of the total penalty amount. Payment shall be made by certified check made payable to "Treasurer, State of Ohio" and sent to Brenda Case, Fiscal Specialist, or her successor, at the following address:

Brenda Case
Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, OH 43216-1049

A copy of the check shall be sent to Jim Orlemann at the following address:

Division of Air Pollution Control
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, OH 43216-1049

The remaining eight thousand dollars (\$8,000) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, AEP shall deliver a certified check in this amount and made payable to the Ohio Department of Natural Resources, Division of Forestry, State Forest Fund for the purpose of funding urban area tree-planting projects in Ohio. This check shall specify that such monies are to be deposited into Fund No. 509. The check shall be sent to John Dorka, Deputy Chief, or his successor, at the following address:

Division of Forestry
Ohio Department of Natural Resources
1855 Fountain Square Court, H-1
Columbus, Ohio 43224-1327

A copy of the check shall be sent to Jim Orlemann at the following address:

Division of Air Pollution Control
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, OH 43216-1049

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's and ODNR'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 AEP's facility.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XI of these Orders.

XI. 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.

XII. RESERVATION OF RIGHTS

Nothing contained herein prevents Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal, or equitable action as deemed appropriate and necessary, including seeking penalties against AEP for noncompliance with these Orders. Nothing contained herein prevents Ohio EPA from exercising its lawful authority to require AEP to perform additional activities at the facility pursuant to ORC Chapter 3704 or any other applicable law in the future. Nothing herein restricts the right of AEP to raise any administrative, legal or equitable claim or defense with respect to such further actions that Ohio EPA may seek to require of AEP.

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 she or he is fully authorized to enter into these Orders and to legally bind such party to this document.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Christopher Jones
Christopher Jones
Director

12-30-02
Date

IT IS SO AGREED:

Ohio Power Company dba American Electric Power

Robert A. Osborne
Signature

12/26/02
Date

ROBERT A. OSBORNE
Printed or Typed Name

ENERGY PRODUCTION MANAGER - GASOLI PLANT
Title