

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

**Aurora Terminal and
Transportation, Inc.
1519 S. Chillicothe Road
Aurora, Ohio 44202**

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**Director's Final Findings
and Orders**

RESPONDENT

**OHIO E.P.A.
SEP 26 2002
ENTERED DIRECTOR'S JOURNAL**

PREAMBLE

It is hereby agreed that:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Aurora Terminal and Transportation, Inc. ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under R.C. 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 relating to the facility identified in Finding 1 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 used in R.C. Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

The Director of Ohio EPA has determined the following findings of fact:

1. Respondent is the owner and operator of a facility located at 1519 South Chillicothe Road, Aurora, Ohio, and is a subsidiary of the Guttman Oil Company. Guttman Oil Company is a member of "The Guttman Group" whose headquarters are located at 200 Speers Street, Belle Vernon, Pennsylvania.

2. On November 20, 1997, Respondent was issued federally enforceable state operating permits ("FESOPs") by Ohio EPA pursuant to OAC Rule 3745-35-07. The FESOPs authorize the facility to operate a gasoline loading rack (emissions unit J001) and nine above-ground storage tanks (emissions units T001 through T009).

3. Respondent obtained FESOPs in order to avoid the requirements of 40 Code of Federal Regulation ("CFR"), Part 63, Subpart R. The requirements of 40 CFR, Part 63, Subpart R are applicable to a facility whose potential to emit volatile organic compounds ("VOC") is greater than 100 tons per year. In addition, the requirements of this regulation apply to a facility that has the potential to emit hazardous air pollutants ("HAPs") in excess of 25 tons per year, for all HAPs combined, or the potential to emit greater than 10 tons per year of any single HAP.

4. Respondent retained the services of Troppe Environmental Consulting ("TEC") to submit permit applications, maintain adequate records and submit required reports, and maintain compliance for facility operations.

5. Section C of the FESOP for the loading rack requires Respondent to maintain monthly records of (1) the total, individual throughputs of gasoline and distillates, (2) the cumulative, individual throughputs of gasoline and distillates for the first 12 months of operation, (3) after the first 12 months of operation, the rolling, 12-month summations of total individual throughputs of gasoline and distillates, (4) the calculated HAP and VOC emissions, and (5) the rolling, 12-month summations of HAP and VOC emissions for all emissions units at the facility. In addition, this section of the FESOP for the loading rack requires daily records be maintained of the downtime for the capture (collection) system, control device, and monitoring equipment, when the emissions unit was in operation and all 3-hour blocks of time during which the average combustion temperature within the thermal incinerator was less than 1400 degrees Fahrenheit.

6. Section D of the FESOPs requires Respondent to submit quarterly deviation reports to the Akron Regional Air Quality Management District ("ARAQMD"), Ohio EPA's contractual representative in Portage County. These quarterly reports are due on January 31, April 30, July 31 and October 31 of each year. In addition, Section D of the FESOPs requires Respondent to submit annual reports of the HAP and VOC emissions to ARAQMD. The annual reports are due on January 31 of each year for the previous calendar year.

7. On July 28, 1999, the ARAQMD conducted an inspection of Respondent's facility. Violations of the facility's FESOPs were noted during the inspection, which included Respondent's failure to conduct daily and monthly record keeping as specified in Section C of the FESOPs. In addition, ARAQMD alleged that the Respondent had failed to submit all of the required quarterly reports and annual reports as specified in Section D

of the FESOPs. Specifically, the annual reports for calendar years 1997 and 1998, which were due January 31, 1998 and January 31, 1999, respectively, had not been submitted by Respondent to ARAQMD. In addition, ARAQMD alleged it had received only three of the required quarterly reports. The quarterly reports submitted by Respondent cover the periods of the second quarter of 1998, the fourth quarter of 1998, and the first quarter of 1999. All three quarterly reports indicate that no deviations from the emission limitations occurred during the reporting period, despite Respondent's failure to conduct the required record keeping. A violation of any term and condition of a permit issued by Ohio EPA constitutes a violation of R.C. 3704.05(C).

8. On July 29, 1999, a Notice of Violation ("NOV") was sent by ARAQMD to Respondent. The NOV summarized the violations pursuant to the July 28, 1999 inspection and requested the facility to submit all delinquent quarterly reports, annual reports, and documentation that the required record keeping is being maintained and calculations are being performed which demonstrate compliance with the permit.

9. On August 10, 1999, pursuant to the July 29, 1999 NOV, Respondent submitted some, but not all, of the requested documents specified in the NOV. Respondent's submittal included the annual report for calendar year 1998, 1st, 2nd, and 4th quarter deviation reports for 1997, 1st, 2nd and 4th quarter deviation reports for 1998, and 1st and 2nd quarter deviation reports for 1999. Respondent's submittal did not include the annual reports for calendar years 1997 and 1999, 3rd quarter deviation report for year 1997, and 3rd and 4th quarter deviation reports for 1999. In addition, Respondent failed to submit documentation that the required record keeping is being maintained and calculations are being performed that demonstrate compliance with the FESOP.

10. On July 6, 2000, Ohio EPA sent a warning letter to the Respondent. The letter summarized the results of the July 28, 1999 inspection, replied to Respondent's August 10, 1999 response to the July 29, 1999 NOV, and requested the facility to submit, within fourteen (14) days of receipt of the letter, all delinquent quarterly and annual reports. Also, Respondent was requested to submit documentation that the required record keeping is being maintained and calculations are being performed that demonstrate compliance with the permit. In addition, Respondent was notified in this correspondence that it may be in violation of 40 CFR, Part 63, Subpart R.

11. On July 24, 2000, ARAQMD received all of the delinquent reports specified in the July 6, 2000 letter from Ohio EPA, and documentation that the required record keeping is being maintained and calculations are being performed that demonstrate compliance with the permit.

12. On December 5, 2001, a meeting was held at the Ohio EPA, Central Office between Respondent, ARAQMD, and Ohio EPA staff to discuss the alleged violations specified in the above-mentioned Findings. Pursuant to the discussions it was determined that the Respondent had submitted the required reports substantially on time, but had failed to adequately perform all of the required record keeping and failed to monitor the combustion temperature of the thermal incinerator while emissions unit J001 was in operation.

13. On June 25, 2002, a FESOP was issued to Respondent for emissions unit J001.

14. 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, Respondent is assessed a civil penalty in the amount of eighteen thousand dollars (\$18,000) 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 fourteen thousand four hundred dollars (\$14,400) 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:

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

The remaining three thousand six hundred dollars (\$3,600) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, Respondent 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 both checks shall be sent to James A. Orlemann, Manager, Engineering Section, or his successor, at the following address:

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

VI. 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's facility.

VII. NOTICE

All documents required by these Orders, unless otherwise specified in writing, shall be submitted to:

Akron Regional Air Quality Management District
146 South High Street, Room 904
Akron, OH 44308
Attention: Sean Vadas

and to:

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

VIII. 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 Respondent for noncompliance with these Orders. Nothing contained herein prevents Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities at the facility pursuant to R.C. Chapter 3704 or any other applicable law in the future. Nothing herein restricts the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions that Ohio EPA may seek to require of Respondent's facility.

IX. MODIFICATIONS

These Orders may be modified by mutual 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. SIGNATORIES

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 this document.

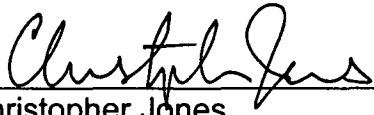
XI. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, Respondent agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's civil liability for the specific violations cited herein. Respondent hereby waives the right to appeal the issuance, terms, and service of these Orders and it hereby waives any and all rights it might 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 an appeal. In such event, Respondent shall continue to comply with these Orders unless these Orders are stayed, vacated, or modified.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency




Christopher Jones
Director

9-23-02
Date


IT IS AGREED:

Aurora Terminal and Transportation, Inc.



By

9/13/02
Date



Title