BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
MAR 19 2010
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Bailey-PVS Oxides Delta LLC.	:	**Director's Final Findings**
6191 County Road 10	:	**and Orders**
Delta, Ohio 43515	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Bailey-PVS Oxides Delta LLC. ("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 the facility (as identified hereinafter) 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 an iron oxide reclamation and hydrochloric acid ("HCl") regeneration plant located at 6191 County Road 10, Delta, Fulton County, Ohio ("Facility"). At the Facility, Respondent receives waste pickle liquor from facilities that pickle sheet metal. The waste pickle liquor consists of a diluted HCl solution which also contains iron oxide residuals. Respondent separates and reclaims the iron oxide residuals for resale and rejuvenates the HCl to be sold back to the steel industry.

2. On March 11, 1998, Ohio EPA issued Permit-to-Install ("PTI") 03-0999 for the HCl reclamation plant, which includes a 34.2 million British thermal units per hour ("MMBtu/hr") natural gas-fired roaster, identified by Ohio EPA as emissions unit ("EU") P002. EU P002 is an "air contaminant source" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X). PTI 03-0999, in part, establishes emission limitations, operational controls and reporting requirements for EU P002. Specifically, for EU P002, the terms and conditions of PTI 03-0999 establish a chlorine ("Cl_2") emissions limitation of 1.6 parts per million by volume ("ppmv") and a HCl emissions limitation of 9.7 ppmv. On June 2, 2005, Respondent submitted a permit modification for EU P002 in which it requested that the emissions limitations for both HCl and Cl_2 be raised to 25 ppmv. Ohio EPA has preliminarily agreed to emissions limitations of 20 ppmv for HCl and 25 ppmv for Cl_2.

3. On March 5, 2007, Ohio EPA conducted an inspection at this Facility. During the inspection, Ohio EPA observed that Respondent had installed and was operating an outside iron oxide storage area and a truck load-out operation without first obtaining a PTI and permit-to-operate ("PTO"), in violation of former OAC Rules 3745-31-02 and 3745-35-02 and ORC § 3704.05(G). By letter dated March 29, 2007, Ohio EPA notified Respondent of Ohio EPA's findings from the March 5, 2007 inspection.

4. On June 21, 2007, Respondent conducted a stack test for EU P002. The average emissions concentrations based on three test runs were 16.90 ppmv for HCl and 80.6 ppmv for Cl_2. The average emissions concentrations exceeded the emissions limitations of 9.7 ppmv for HCl and 1.6 ppmv for Cl_2, in violation of the terms and conditions of PTI 03-0999 and ORC § 3704.05(C). By letters dated August 24 and August 27, 2007, Ohio EPA notified Respondent of these violations.

5. On February 7, 2008, Respondent conducted another stack test at this Facility. The average emissions concentrations based on three test runs were 10.49 ppmv for HCl and 5.06 ppmv for Cl_2. The average emissions concentrations exceeded the emissions limitations of 9.7 ppmv for HCl and 1.6 ppmv for Cl_2, in violation of the terms and conditions of PTI 03-0999 and ORC § 3704.05(C). By letter dated April 17, 2008, Ohio EPA notified Respondent of these violations.

6. On June 18, 2008 and February 26, 2009, Ohio EPA conducted compliance inspections at the Facility and noted that the truck load-out operation appeared to be in operation; therefore, Respondent has continued to operate an outside iron oxide storage area and truck load-out operation without obtaining a PTIO, in violation of OAC Rule 3745-31-02 and ORC § 3704.05(G).

7. After the February 26, 2009 inspection, Respondent notified Ohio EPA that the truck load-out operation, referenced in Finding Nos. 3 and 6, had been disabled and not in operation.

8. 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. Within thirty (30) days after the effective date of these Orders, Respondent shall submit, to Ohio EPA, complete and approvable PTIO applications for the outside iron oxide storage area and the truck load-out operation, except Respondent need not submit such an application for any of these emissions units that will be permanently shutdown within thirty (30) days after the effective date of these Orders, and Respondent confirms such permanent shutdown in writing, to Ohio EPA, within thirty (30) days after the effective date of these Orders.

2. Respondent shall pay the amount of fifty-five thousand dollars ($55,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by official checks made payable to "Treasurer, State of Ohio" for forty-four thousand dollars ($44,000) of the total amount, which shall be paid in installments per the following schedule:

a. Within one hundred and twenty (120) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of eight thousand eight hundred dollars ($8,800);

b. Within two hundred and ten (210) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of eight thousand eight hundred dollars ($8,800);

c. Within three hundred (300) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of eight thousand eight hundred dollars ($8,800);

d. Within three hundred and ninety (390) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of eight thousand eight hundred dollars ($8,800); and

e. Within four hundred and eighty (480) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of eight thousand eight hundred dollars ($8,800).

The official checks 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 eleven thousand dollars ($11,000) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $11,000 to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment on or within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for $11,000. 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.

4. A copy of each of the above checks 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
50 West Town Street, Suite 700
P.O. Box 1049
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 $11,000 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 the purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice president or his duty authorized representative.

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: Don Waltermeyer

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
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

Chris Korleski
Director

Date 3/18/10

AGREED:

Bailey-PVS Oxides Delta LLC.

Signature

Date 3/4/10

RICHARD A. BARCELONA JR
Printed or Typed Name

President
Title