

BEFORE THE

OHIO E.P.A.

JUL 24 2012

OHIO ENVIRONMENTAL PROTECTION AGENCY DIRECTOR'S JOURNAL

In the Matter of:

G. A. Wintzer & Son Company
P.O. Box 406
204 West Auglaize Street
Wapakoneta, Ohio 45895

Director's Final Findings
and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to G. A. Wintzer & Son Company ("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 Respondent or of the facility (as hereinafter identified) 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 regulations promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a rendering facility that specializes in the manufacturing of feed ingredients, oils and grease. The facility is located at 12279 South Dixie Highway, Wapakoneta, Ohio, and is identified by Ohio EPA as facility number 0306020008. Respondent's facility is a Title V source, as defined in Ohio Administrative Code ("OAC") Rule 3745-77-01(PP), and is subject to the requirements of ORC Chapter

3704 and OAC Chapter 3745-77.

2. Unless a Title V permit prohibits the construction or operation of a new or modified source, OAC Rule 3745-77-04(D) requires sources who obtain a preconstruction permit under Part C or Part D of Title I of the Clean Air Act to submit a complete Title V permit application within twelve months after commencing operation.

3. OAC Rule 3745-77-02(A) states, in part, that the owner or operator of a Title V source shall not operate such a source after the date that a timely and complete Title V permit application is required, unless such application has been timely submitted or the source is in compliance with a Title V permit.

4. OAC Rule 3745-77-04(E) requires that a Title V permit renewal application be filed no earlier than eighteen months and no later than six months prior to the expiration of any Title V permit.

5. ORC ' 3704.05(C) prohibits any person from violating any terms or conditions of any permit issued by the Director of Ohio EPA.

6. ORC ' 3704.05(G) prohibits any person from violating any order, rule or determination of the Director of Ohio EPA issued, adopted, or made under ORC Chapter 3704. All of the rules mentioned herein were adopted under ORC Chapter 3704.

7. ORC ' 3704.05(J)(2) states that no person shall violate any filing requirement of the Title V permit program.

Failure to timely submit a Title V renewal permit application:

8. On May 16, 2001, Ohio EPA issued the initial Title V permit for Respondent's facility and on August 16, 2006, Ohio EPA issued a renewal Title V permit for the facility. The renewal permit's expiration date of August 16, 2011, was given in the final issuance cover page of the permit, as well as a statement that Title V permit renewal applications are to be filed no earlier than eighteen months and no later than six months prior to the expiration of any Title V permit.

9. In letters dated March 12, 2010, and October 28, 2010, Ohio EPA sent notices to Respondent regarding the Title V permit's expiration. These letters stated that Respondent's Title V permit was to expire on August 16, 2011, and provided a description of the renewal application requirements and procedures.

10. Respondent failed to submit an application to renew its Title V permit to Ohio EPA at least six months prior to the permit expiration date (i.e., by February 16, 2011), in violation of OAC Rule 3745-77-04(E) and ORC ' 3704.05(G) and (J)(2).

11. Respondent submitted a complete Title V permit renewal application to Ohio EPA on March 24, 2011, and Ohio EPA issued the renewal Title V permit on August 15, 2011.

Failure to submit a Title V permit application within twelve months after commencing operation of emissions unit B003:

12. On June 12, 2008, Ohio EPA issued a synthetic minor permit-to-install ("PTI") for the installation of a boiler identified by Ohio EPA as emissions unit B003. This PTI (03-17366) established combined sulfur dioxide ("SO₂") and combined nitrogen oxide ("NO_x") emission limitations for the new boiler (i.e., B003) and two existing boilers (i.e., B001 and B002). Because the boilers generate the bulk of the facility's SO₂ and NO_x emissions, the combined emission limitations keep the facility below the Prevention of Significant Deterioration ("PSD") applicability level and essentially replaced the requirements contained in the Title V permit. Additionally, PTI 03-17366 required Respondent to conduct a PM₁₀ stack test to demonstrate compliance with the PM₁₀ emission limitation specified for the new boiler.

13. Shortly after the PTI was issued, Ohio EPA's Northwest District Office ("NWDO") discovered that the permit did not contain the monitoring requirements specified in 40 CFR, Part 60, Subpart Dc (Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units) and issued a Notice of Violation dated November 26, 2008, asserting that Respondent failed to submit timely testing and monitoring plans and maintain certain records in violation of PTI 03-17366 and 40 CFR, Part 60, Subpart Dc. Respondent issued a response letter to Ohio EPA on December 19, 2008, stating that the plans and records referenced in the NOV were not required since B003 had not commenced operations, but nonetheless attaching certain information, including monitoring plans, emission records, and agreeing to install Continuous Opacity Monitoring systems and conduct emission tests at the appropriate times. Based on this response and subsequent communications between the parties, Ohio EPA issued a letter dated September 29, 2009 indicating the violations alleged in the NOV were corrected.

14. On February 26, 2009, Respondent conducted a PM₁₀ emissions stack test for emissions unit B003. The measured PM₁₀ emissions were not in compliance with the limitation specified in PTI 03-17366.

15. On May 1, 2009, Respondent submitted the results of the PM₁₀ emissions stack test to NWDO and, on June 29, 2009, NWDO sent a letter to Respondent accepting the results of the test and alleging a violation of Respondent's PTI 03-17366. The test results showed that the condensable particulate matter ("PM") emissions (0.133 lb/MMBtu) when added to the filterable PM emissions (0.043 lb/MMBtu) exceeded the PM₁₀ emission PTI limitation (0.05 lb/MMBtu). The letter stated that USEPA had raised

concerns regarding the accuracy of the test method (Method 202) used during the stack test to measure the condensable PM emissions. However, due to the amount of total PM emissions measured during the test, the letter recommended that Respondent evaluate compliance options to return the boiler into compliance with the PTI PM₁₀ emission limitation or to submit a PTI modification application requesting a higher PM₁₀ emission limitation.

16. On January 19, 2010, Respondent submitted a PTI modification application to increase the PM₁₀ emissions limitation and, on February 17, 2011, Ohio EPA issued a modified PTI with the higher PM₁₀ emission limitation and the monitoring requirements of 40 CFR, Part 60, Subpart Dc.

17. OAC Rule 3745-77-04(D) and PTI 03-17366 required Respondent to submit a complete Title V permit application or a complete Title V permit modification application within twelve months of the commencement of operation of emissions unit B003. In or around beginning of 2009, emissions unit B003 started operation; thus, requiring Respondent to submit a complete Title V permit modification application by March 2010.

18. Respondent did not submit a Title V modification application until March 24, 2011. Respondent failed to timely submit a complete Title V modification application, in violation of OAC Rule 3745-77-04(D), the terms and conditions of PTI 03-17366, and ORC § 3704.05(C), (G) and (J)(2).

19. On April 4, 2011, NWDO sent a notice of violation to Respondent for the failure to timely submit the Title V permit modification application for the installation of the new boiler. Respondent indicated to the NWDO that it was waiting on the issuance of the PTI modification before it proceeded with submitting the renewal and modification Title V permit applications.

Failure to comply with PTI PM₁₀ emission limitation:

20. On February 26, 2009, Respondent conducted a PM₁₀ emission stack test for emissions unit B003. The measured PM₁₀ emissions were not in compliance with the limitation specified in PTI 03-17366. Therefore, Respondent violated the terms and conditions of PTI 03-17366, and ORC § 3704.05(C).

21. On February 17, 2011, Ohio EPA issued a modified PTI with a higher PM₁₀ emission limitation; thereby bringing the boiler into compliance. No physical change or change in the method of operation was associated with the modification.

22. 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 eight thousand dollars (\$8,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. 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 six thousand four hundred dollars (\$6,400). The official check shall be submitted to Akia Smith, or her successor, together with a letter identifying Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining one thousand six hundred (\$1,600) of the civil penalty, Respondent shall, within fourteen (14) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$1,600 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 \$1,600. The official check shall be submitted to Akia Smith, 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 Bruce Weinberg, Manager, Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
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 \$1,600 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, 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 the 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:

Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attention: Jennifer Jolliff, Supervisor

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Bruce Weinberg, Manager, Enforcement Section

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 the 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 the 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

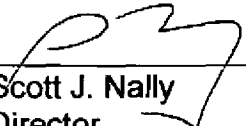
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

7/12/12

Date

AGREED:

G. A. Wintzer & Son Company



Signature

7-5-2012

Date

Carl C. Wintzer

Printed or Typed Name

Vice President

Title