

OCT 10 1996

OHIO EPA

Issue Date OCT 10 1996
Effective Date OCT 10 1996

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In The Matter of

AEP Flexo, Inc.
200 Benham Street
Dayton, Kentucky 41074

Respondent

:
:
:
:
: MODIFICATION OF
: DIRECTOR'S FINAL
: FINDINGS & ORDERS
:

It is hereby agreed to by the Parties as follows:

SECTION A

On July 28, 1993, Director's Final Findings and Orders were journalized in the matter of AEP Flexo, Inc., 200 Benham Street, Dayton, Kentucky 41074, as Respondent. All provisions of these Director's Final Findings and Orders remain unchanged and in full effect except for the modifications listed below.

SECTION B

Paragraph C of Article IV, Work to be Performed, is modified to read as follows:

C. The Respondent shall incorporate any written comments that may be made by the Ohio EPA into the draft Workplan or draft required document. The Respondent shall submit a revised draft

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By: Karal P. [Signature] Date 10/10/96

Workplan or revised draft required document, other than the revised Focused Site Characterization/Conceptual Design Report which is governed by the provisions of paragraph F of this Article, to Ohio EPA within thirty (30) days of receipt of Ohio EPA's comments demonstrating the incorporation of Ohio EPA's comments. Following receipt by Ohio EPA of the revised draft Workplan or revised draft document, other than the revised Focused Site Characterization/Conceptual Design Report which is governed by the provisions of paragraph F of this Article, the Ohio EPA will either approve or disapprove, in writing, the draft Workplan or draft required document. Article IX of these Orders shall apply should a dispute arise between the Ohio EPA and Respondent under Article IV, paragraph C, of these Orders.

SECTION C

Article IV, Work to be Performed, is modified to include the following new paragraph F:

F. On August 12, 1994, Respondent submitted a draft Focused Site Characterization/Conceptual Design Report to the Ohio EPA for review and comment. Respondent shall submit a revised Focused Site Characterization/Conceptual Design Report to the Ohio EPA that incorporates the requirements of sub-sections 1 through 4 of this paragraph F by October 18, 1996. Following receipt by the Ohio EPA of the revised Focused Site Characterization/Conceptual Design Report, the Ohio EPA will

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By: Kara Yule Date 10/10/96

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either approve or disapprove, in writing, the revised Focused Site Characterization/Conceptual Design Report. The revised Focused Site Characterization/Conceptual Design Report shall incorporate the following requirements:

1. Ground Water Cleanup Goal. The maximum contaminant level (MCL) for tetrachloroethylene (PCE) may be used as the ground water cleanup goal for PCE; provided that, no other contaminants are detected at the Site during monitoring of the source control interim action (SCIA). If other contaminants are detected, Respondent shall develop alternative cleanup goals for both PCE and the other detected contaminants in accordance with the NCP.

2. Operation of the SCIA. Respondent will perform a short-term pilot test to acquire data to design and implement the full scale SCIA. Air controls will be utilized to eliminate or minimize, to the degree possible, the cross-media transfer of contaminants during the operation of the pilot test and the SCIA.

Respondent will operate the SCIA to attempt to reach the ground water cleanup goal. If the cleanup goal is achieved, Respondent will resample the ground water approximately one week after initially achieving the ground water cleanup goal to verify that the cleanup goal has been achieved. If this resampling reaffirms that the cleanup goal has been achieved, then the SCIA will be shut-down, and Respondent will monitor the ground water quarterly

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for eight consecutive quarters to ensure that the cleanup goal continues to be met.

If the ground water cleanup goal is not achieved initially, or if the quarterly monitoring indicates that the cleanup goal is not being maintained, then Respondent will perform technology enhancements to the SCIA. These technology enhancements could involve more than minor operational modifications, but would not involve large-scale modifications to the SCIA. The use of ozone as a sparge gas to enhance the destruction of PCE in ground water would be an example of a potential modification that would be acceptable.

If the ground water cleanup goal is achieved after the technology enhancements have been performed, Respondent will resample the ground water approximately one week after achieving the ground water cleanup goal to verify the cleanup goal has been achieved. If this resampling reaffirms that the ground water cleanup goal has been achieved, then the SCIA will be shut down, and Respondent will monitor the ground water quarterly for eight consecutive quarters to ensure that the cleanup goal continues to be met. If the quarterly monitoring indicates that the cleanup goal is not being maintained, Respondent will perform additional technology enhancements or seek to demonstrate to the Ohio EPA's satisfaction, pursuant to the procedures of paragraph F.4. of Article IV, Work to be Performed, that achievement of the ground water cleanup goal is technically infeasible.

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If the ground water cleanup goal is not achieved after the technology enhancements have been performed and the Ohio EPA determines pursuant to the procedures of paragraph F.4. of Article IV, Work to be Performed, that achievement of the cleanup goal is technically infeasible, Respondent will be required to perform quarterly ground water sampling for eight consecutive quarters. If ground water samples collected during quarterly sampling do not exhibit any statistically significant or consistent rebound in contaminant concentrations, Respondent may submit a certification, pursuant to Article XIII, Termination, for termination of these Orders.

3. Containment Options. Containment options, including pump/treat, hydraulic containment, cap/covers, and slurry walls will not be required to be implemented under these Orders. However, in addition to the reservations of rights contained in other Articles of these Orders, the Ohio EPA specifically reserves the right under any applicable legal authority to investigate and implement the use of containments options as a result of conditions at the Site. In addition, the Ohio EPA reserves the right under any applicable legal authority to require Respondent to investigate and implement containment options as a result of conditions at the Site. The termination of these Orders pursuant to Article XIII shall not affect these reservations of rights.

4. Technical Infeasibility. Respondent may seek to

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demonstrate to the Ohio EPA's satisfaction that achievement of the ground water cleanup goal for PCE, or alternate cleanup goals, is technically infeasible. Ohio EPA will not consider such a claim until the following conditions have been met by Respondent:

a. Operational variations in the SCIA have been implemented to enhance system performance and to determine that ground water concentrations of PCE, or other detected compounds, are approaching equilibrium (asymptotic) levels. These operational variations must include, but are not limited to, pulsed injection/flow rates, variation of injection/flow rates and zonal operation of the air sparging and soil vapor extraction system.

b. Modular changes in the SCIA have been evaluated with respect to their potential to achieve the established cleanup goal in a reasonable period of time and have been implemented if practicable. These changes may include the addition of ozone generators or other components to the existing SCIA that would enhance the destruction or volatilization of contaminants in soil and ground water.

c. Limited, confirmatory steady-state ground water samples indicate that asymptotic conditions exist.

After these conditions have been met by Respondent, Ohio EPA will

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consider Respondent's claim that achievement of the established cleanup goal is technically infeasible. Ohio EPA will require Respondent to provide sound, widely-accepted scientific and statistical evidence to show that the established ground water cleanup goal for PCE, or other detected compounds, cannot be attained. Respondent will also be required to demonstrate to the Ohio EPA's satisfaction that further reductions in contaminant concentration cannot be achieved in a reasonable period of time.

If Ohio EPA agrees with Respondent's assertion of technical infeasibility, Respondent will be required to perform quarterly ground water sampling for eight consecutive quarters. If ground water samples collected during quarterly sampling do not exhibit any statistically significant or consistent rebound in contaminant concentrations, Respondent may submit a certification, pursuant to Article XIII, Termination, for termination of these Orders.

If the Ohio EPA disagrees with Respondent's assertion of technical infeasibility, Respondent may seek to invoke dispute resolution procedures under Article IX, Dispute Resolution. The provisions of that Article shall apply to the dispute; except that, the seven (7) day time periods of paragraphs B and C of Article IX shall be lengthened to fourteen (14) days. All other provisions of Article IX, Dispute Resolution, shall remain the same.

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SECTION D

Article X, Reimbursement of Costs, is modified to label the existing paragraph of Article X as paragraph A. Article X, Reimbursement of Costs, is also modified to include the following new paragraph B:

B. Respondent owes the Ohio EPA \$48,279.85 for oversight and response costs incurred during calendar year 1995. Respondent shall reimburse the Ohio EPA for these costs in the following manner:

1. Respondent shall pay the Ohio EPA \$9,291.78 before December 1, 1996;

2. Respondent shall pay the Ohio EPA the remaining amount owed for oversight and response costs incurred during calendar year 1995, \$38,988.07, in accordance with the following procedures:

a. Respondent shall include in its monthly report a description of the technology enhancements performed during the previous month, the expense of such enhancements, and the expense of operating and maintaining the air control system once the influent to air controls drops below ten (10) pounds of contaminants per day. If requested by the Ohio EPA, Respondent shall provide documentation to support the claimed expenses

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within ten (10) days of receipt of the request.

b. Respondent shall deduct from the remaining amount owed for oversight and response costs incurred during calendar year 1995, \$38,988.07, allowable credits. If the ground water cleanup goal is achieved without the use of technology enhancements, allowable credits are limited to non-capital expenses associated with the operation and maintenance of the air emission control system, excluding labor expenses, once the influent to air control drops below ten (10) pounds of contaminants per day.

If the ground water cleanup goal is achieved with the use of technology enhancements, or if the Ohio EPA determines that the attainment of the ground water cleanup goal is technically infeasible, allowable credits are limited to the capital costs of the technology enhancements and to non-capital expenses associated with the operation and maintenance of the air emission control system, excluding labor expenses, once the influent to air control drops below ten (10) pounds of contaminants per day.

c. Respondent shall pay the Ohio EPA the remaining amount of \$38,988.07, minus any allowable credits, within thirty (30) days of either the achievement of the ground water cleanup goal or the Ohio EPA's determination of technical infeasibility.

3. Payments made to the Ohio EPA pursuant to this paragraph B, shall be made in the form of a certified check

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payable to "Treasurer, State of Ohio" and shall be forwarded to Fiscal Officer, Ohio EPA, P.O. Box 1049, 1800 Watermark Drive, Columbus, Ohio 43266-1049, ATTN: Edith Long. A copy of the transmittal letter and check shall be sent to Fiscal Officer, DERR, Ohio EPA, P.O. Box 1049, 1800 Watermark Drive, Columbus, Ohio 43266-1049, ATTN: Pat Campbell, and to the Ohio EPA Site Coordinator.

4. This paragraph B of Article X, Reimbursement of Costs, establishes procedures only for the oversight and response costs incurred by the Ohio EPA during the calendar year 1995. Respondent's obligation to reimburse the Ohio EPA for oversight and response costs incurred during other time periods remains unchanged.

IT IS SO ORDERED:


Donald R. Schregardus, Director
Ohio Environmental Protection Agency

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WAIVER AND AGREEMENT

In order to resolve disputed claims, without admission of fact, violation, or liability, Respondent hereby agrees that this Modification of Director's Final Findings and Orders is lawful and reasonable, and agrees to perform all actions required by this Modification of Director's Final Findings and Orders.

The Respondent hereby waives the right to appeal the issuance, terms and service of this Modification of Director's Final Findings and Orders and hereby waives any rights it may have to seek judicial review of such Modification of Director's Final Findings and Orders either in law or equity.

Notwithstanding the preceding, the Ohio EPA and Respondent agree that in the event that this Modification of Director's Final Findings and Orders is appealed by any other party to the Environmental Board of Review, or any court, Respondent retains the right to intervene and participate in such appeal. In such event, Respondent shall continue to comply with this Modification of Director's Final Findings and Orders notwithstanding such appeal and intervention unless this Modification of Director's Final Findings and Orders is stayed, vacated or modified.

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IT IS SO AGREED:

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By: Kara Jones Date 10/10/96

By: Chas E Deye Jr
AEP Flexo, Inc.

9/16/96
Date

CHAS E. DEYE JR
Typed or printed name

President
Title

Ohio Environmental Protection Agency

1 Donald R. Schregardus
Director

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