

OHIO E.P.A.
JUL 15 2010

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Babcock & Wilcox Power Generation Group, Inc.
180 South Van Buren Avenue
Barberton, Ohio 44203-0622

Applicant

**Director's Final
Findings and Orders**
***Renewal of Waiver in Connection
with Temporary Discontinuance
of Regulated Operations***

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

By: Jerry Koesel Date: 7-15-10

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Babcock & Wilcox Power Generation Group, Inc. (Applicant) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under §§ 3745.01 and 3752.10 of the Ohio Revised Code (ORC).

II. PARTIES BOUND

These Orders shall apply to and be binding upon Applicant and successors in interest liable under Ohio law. No change in ownership of the Applicant or of the Facility shall in any way alter Applicant's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms in these Orders shall have the same meaning as defined ORC Chapter 3752. and rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. On January 12, 2010, Ohio EPA issued Director's Final Findings and Orders to Applicant. The January 12, 2010 Director's Final Findings and Orders granted to Applicant a waiver in connection with temporary discontinuance of regulated operations at the facility pursuant to ORC § 3752.10 and Ohio Administrative Code

(OAC) rule 3745-352-40. All findings made in the January 12, 2010 Director's Final Findings and Orders are incorporated herein by reference.

2. The January 12, 2010 Director's Final Findings and Orders required Applicant to, inter alia, comply with the approved application for a waiver in connection with temporary discontinuance of regulated operations and the interim maintenance and operation plan attached and incorporated into the January 12, 2010 Director's Final Findings and Orders as Attachment A. The January 12, 2010 Director's Final Findings and Orders also established June 1, 2010 as the deadline for the resumption of regulated operations at the Facility.
3. By letter dated May 11, 2010, Applicant requested a Renewal to the January 12, 2010 Director's Final Findings and Orders. Specifically, Applicant requested that Ohio EPA renew the existing waiver to extend the deadline for resumption of regulated operations at the Facility from June 1, 2010 to December 31, 2011. In support of its request, Applicant explained due to financial constraints and scheduling issues regulated operations are now predicted to resume by the end of 2011.
4. ORC § 3752.10(A) and OAC rule 3745-352-40(C) provide that a waiver in connection with temporary discontinuance of regulated operations may be renewed subject to any terms and conditions the Director considers necessary to protect public health or safety or the environment.

V. ORDERS

1. Applicant shall comply with the approved application for a waiver from temporary discontinuance and interim maintenance and operation plan which is attached to these Orders and incorporated herein as Attachment A.
2. All terms and conditions contained in the January 12, 2010 Director's Final Findings and Orders remain valid and in effect with the exception of the deadline for the resumption of regulated operations at the Facility and the date of termination of these Orders. The deadline for resumption of regulated operations at the Facility is extended from June 1, 2010 to December 31, 2011. Furthermore, these Orders shall terminate on December 31, 2011 as specified in Section XIV, Termination.

VI. 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 relating to, the operation of Applicant's Facility.

VII. 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 Applicant.

VIII. 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.

IX. NOTICE

All documents required to be submitted by Applicant pursuant to these Orders, shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Hazardous Waste Management
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: DHWM Manager and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
Attn: Manager, Compliance Assurance Section
50 West Town Street, Suite 700
Columbus, Ohio 43215

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

X. RESERVATION OF RIGHTS

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

XI. WAIVER

The Applicant agrees that these Orders are lawful and reasonable and agrees to comply with all terms and conditions contained herein.

Applicant hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Applicant hereby waives any and all rights Applicant may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Applicant agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Applicant retains the right to intervene and participate in such appeal. In such an event, Applicant shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XII. REVOCATION

These Orders may be revoked for Applicant's failure to comply with the approved interim maintenance and operation plan or with a term or condition of these Orders approving the waiver.

XIII. EFFECTIVE DATE

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

XIV. TERMINATION

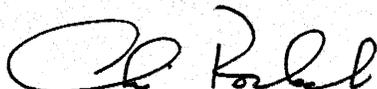
Unless otherwise revoked by the Director, these Orders shall terminate on December 31, 2011. An application for a renewal may be submitted to the Director in accordance with applicable law.

XV. SIGNATORY AUTHORITY

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such signatory to this document.

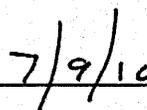
IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Chris Korleski
Director

Date



IT IS SO AGREED:

Babcock & Wilcox Power Generation Group, Inc.

Hamid Sarv

Signature

6-23-10

Date

Hamid Sarv

Printed or Typed Name

Director of Research Center

Title

Keyword: Babcock & Wilcox Power

Attachment A

**The Babcock and Wilcox
Research Center
Alliance, Ohio**

Site O&M Plan

November 18, 2009

Facility Information

The Babcock and Wilcox Research Center (BWRC) is located at 1562 Beeson St., Alliance, OH 44601. BWRC is in Lexington Township in the northeast portion of Stark County. Approximate longitudinal and latitudinal coordinates for the property are as follows:

40 deg. 55 min 22 sec (latitude)

81 deg 07 min 43 sec (longitude)

Temporary Discontinuance of Operations

BWRC has temporarily discontinued research operations at this site as of January 1, 2009. However, we must still maintain the capability to perform clean-coal combustion technology research as it is an important aspect of the Babcock and Wilcox Company portfolio. We are anticipating resuming operations in 2010. This is a result of expected project work that awaits funding. In the interim, although not required by EPA, all regulated substances, with a few exceptions as noted in this plan, have been removed from site and properly disposed. This virtually eliminates the risk for environmental contamination during the temporary discontinuance.

Adjacent Land Use

BWRC consists of a 26-acre portion of land bounded by Beeson St. to the North, Sawburg Avenue to the west and light industrial land uses to the south and west.

Regulated Substance Use/Storage (CY 2006-2009)

The following regulated substances were in use or stored at BWRC within the last three years to support the operation of a 100 MMBTU/hr coal combustion research boiler:

- Compressed gases (e.g. sulfur oxides, nitrogen oxides, carbon dioxide, nitrogen, argon, oxygen, acetylene) for instrument calibrations and welding activities
- Liquid oxygen for oxy-combustion research
- Coal for clean-coal combustion research
- Calcium carbonate for clean-coal combustion scrubber operation/research
- Liquid carbon dioxide for coal equipment fire suppression system
- Oil for transformers, pumps, etc.
- #6 fuel oil for plant heating (note: fuel oil is no longer used for plant heating)
- Mineral spirits for equipment maintenance
- Lubricating oil for equipment maintenance

Asbestos containing building materials (ACM) are present at the facility. An asbestos O&M Plan is maintained at the site. Inspections of ACM are conducted annually by a certified asbestos evaluation specialist.

Site Security

The property is surrounded by a chain link fence and is staffed 24 hours/day by one employee. The southern portion of the property is monitored by camera surveillance which ties into the security office. Security rounds are conducted daily during the second and third shifts approximately every 1 ½ hours. Security officers use an electronic system to document inspection rounds. They each carry a Detek wand and scan buttons located in strategic portions of the facility (approximately 17 inspection areas), including facility access points. A report is printed daily and maintained with the site files and is available for review upon request. Per Ohio EPA NEDO's site inspection on November 5, 2009, posting the site with signage is not required due to the removal of the regulated substances.

SPCC Plan

A certified SPCC Plan is maintained at the facility.

Evacuation Plan

In the event of an emergency, a call is placed to 911 for dispatch of appropriate responders (fire, medical, etc). The assembly point is the main parking lot in the front of the facility. All individuals visiting the site register at the security office to ensure accountability should an evacuation be required.

Prevention of Environmental Contamination

All regulated substances, with the exception of transformer or equipment oil, has been removed from the property as a best management practice. Some small quantities (e.g. quart-size or smaller containers) of lubricating oil, insect spray and other miscellaneous maintenance materials are still maintained onsite for equipment maintenance purposes. These materials are kept indoors in flammable storage cabinets. Spill control equipment (absorbent pads, booms, pillows, PPE, etc.) and fire extinguishers are available onsite for emergency responder use.