OHIO E.P.A.
MAR 24 2015
ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Enterprise Products Operating LLC P.O. Box 4324 Houston, Texas 77210	:	**Director's Final Findings and Orders**
Respondent		

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.

By: _____ Date: 3/24/15

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Enterprise Products Operating LLC ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §6111.03 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 the Facility (as hereinafter defined) 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 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the owner and operator of the hydraulic directional drilling operations located at approximately 12225 Alpine Highway, Frazeysburg, Ohio 43822 Muskingum County, Ohio (Site 1) and near McAfee Road Jewett, Ohio 43986 Harrison County, Ohio (Site 2).

2. Site 1 is located in the vicinity of an unnamed tributary of Wakatomika Creek.

3. Wakatomika Creek is in the Muskingum River Basin and is a "water of the state" as that term is defined in ORC § 6111.01. Wakatomika Creek is designated as a warmwater habitat stream (WWH) in accordance with Ohio Administrative Code ("OAC") 3745-1-24.

4. Site 2 is located in the vicinity of an unnamed tributary to Conotton Creek.

5. Conotton Creek is in the Muskingum River Basin and is a "water of the state" as that term is defined in ORC § 6111.01. Conotton Creek is classified as a warmwater habitat stream (WWH) in accordance with OAC 3745-1-24.

6. In accordance with ORC § 6111.04, no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant to waters of the state without applying for and obtaining a valid permit.

7. OAC Rule 3745-1-04 provides, in part, that the following general water quality criteria shall apply to all surface waters of the state including mixing zones: To every extent practical and possible as determined by the Director, these waters shall be: (A) Free from suspended solids or other substances that enter the waters as a result of human activity and that will settle to form putrescent or otherwise objectionable sludge deposits, or that will adversely affect aquatic life; and (C) Free from materials entering the waters as a result of human activity producing color, odor or other conditions in such a degree as to create a nuisance.

Site 1

8. On June 18-19, 2013, a complainant called and emailed Ohio EPA to report that stormwater controls on the ATEX pipeline project were not functioning adequately. Ohio EPA investigated the complaint on June 26, 2013 and found the complaint to be valid. The investigation documented discolored water discharging from the site that ultimately discharged into Wakatomika Creek.

9. On July 15, 2013, a complainant called Ohio EPA regarding an inadvertent release from a horizontal drilling operation. Ohio EPA DSW investigated the complaint on July 15, 2013 and observed mud coming from the hillside and entering into the waters of the state. The release occurred on a hillside on a neighboring property. The fluid entered a small ravine which then entered Wakatomika Creek.

10. Ohio EPA Division of Environmental Response and Revitalization (DERR) investigated on July 16, 2013 and found the complaint to be valid. On July 16, 2013, Ohio EPA DERR responded to the inadvertent release and presented a

Notice of Violation ("NOV") to the contractor for a violation of ORC 6111.04. The NOV stated that drilling operations should be ceased so adequate assessment of the release can occur with reasonable attempts to contain the release. Ohio EPA was informed later that the drilling operation had been halted to address the issues of concern. Samples of the release materials and photos were collected onsite.

11. On July 24, 2013, Ohio EPA DSW visited the site and provided technical assistance while performing an inspection. It was determined that additional erosion control work must be completed immediately. A formal letter covering this inspection was sent on August 12, 2013 to document what was observed and what still needed to be done. Additional work requested from the letter included providing temporary stabilization on disturbed areas near the horizontal drilling machine, diverting water away from the disturbed areas, managing sediment laden water to ensure that no sediment laden water is discharged to waters of the state, permanently stabilizing the area, and continuing to maintain all storm water controls. A written notification was requested.

12. On August 2, 2013, Ohio EPA received the sampling results from the samples collected on July 16, 2013. The results were unremarkable and indicated that water appeared to be the only media used in the boring process.

13. On August 20, 2013, Ohio EPA received a response from Sheehan Pipeline Construction addressing Ohio EPA's concerns outlined in the August 12, 2013 letter. Sheehan Pipeline Construction stated that they are a general contractor for ATEX. The letter addressed Ohio EPA's concerns and provided remedies to abate the violations.

14. Respondent discharged pollutants into an unnamed tributary of Wakatomika Creek on July 15, 2013, without obtaining an Ohio NPDES permit or obtaining authorization to discharge under a general NPDES permit, in violation of ORC §§ 6111.04 and 6111.07

15. Respondent's discharge on July 15, 2013 temporarily caused the water quality standards found in OAC Rule 3745-1-04(A) to be violated by depositing substances into an unnamed tributary of Wakatomika Creek as a result of human activity that settled to form objectionable deposits and that adversely affected aquatic life.

16. Respondent's discharge on July 15, 2013 temporarily caused the water quality standards found in OAC Rule 3745-1-04(C) to be violated by discharging substances into an unnamed tributary of Wakatomika Creek as a result of human activity that altered the natural color or other conditions of the unnamed tributary of Wakatomika Creek in such a degree as to create a nuisance.

Site 2

17. On October 1, 2013, a horizontal drilling related discharge was found to have impacted residential drinking water wells and the unnamed tributary to Conotton Creek along McAfee Road in Harrison County. Ohio EPA also received a complaint from a local resident stating that a white substance could be seen in the stream. Ohio EPA DERR investigated the situation. Ohio EPA DERR concurred that a large amount of bentonite was released at above the location due to horizontal drilling activities. Ohio EPA DERR observed a large amount of the substance was in a Conotton Creek tributary a ¼ mile downstream.

18. Ohio EPA DERR and DSW visited the site multiple times throughout the week to provide technical assistance and to ensure the cleanup was taking place properly. Water samples were collected from the abandoned creek channel on October 2, 2013. On October 3, 2013, Ohio EPA inspected the impacted properties with well contamination.

19. Two drinking water wells were found to be impacted from the horizontal drilling related discharge. ATEX personnel addressed the polluted drinking water wells in an expeditious manner and to ensure the residents that utilized the wells were provided with clean drinking water while the wells were assessed and cleaned.

20. The horizontal drilling related discharge that was witnessed on October 1, 2013 in the residential wells and the unnamed tributary to Conotton Creek exceeded criteria set forth in OAC 3745-1-04.

21. On October 8, 2013, the local health department states that the drinking water wells are clean, clear, and producing at acceptable levels.

22. On October 9, 2013, Ohio EPA DERR receives well sampling results and finds nothing remarkable.

23. On January 30, 2014, Ohio EPA sent out a certified letter outlining the violations associated with the event. Ohio EPA waited a few months to send this letter to ensure the drinking water wells were satisfactory and that water quality in the stream has returned to an acceptable level.

24. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.

25. Respondent discharged pollutants into unnamed tributary to Conotton Creek on October 1, 2013, without obtaining an Ohio NPDES permit or obtaining

authorization to discharge under a general NPDES permit, in violation of ORC §§ 6111.04 and 6111.07,

26. Respondent's discharge on October 1, 2013 temporarily caused the water quality standards found in OAC Rule 3745-1-04(A) to be violated by depositing substances into an unnamed tributary of Conotton Creek as a result of human activity that settled to form objectionable deposits and that adversely affected aquatic life.

27. Respondent's clay solution discharge on October 1, 2013 temporarily caused the water quality standards found in OAC Rule 3745-1-04(C) to be violated by discharging substances into an unnamed tributary of Conotton Creek as a result of human activity that altered the natural color or other conditions of an unnamed tributary of Conotton Creek in such a degree as to create a nuisance.

28. Respondent discharged pollutants into ground water on October 1, 2013, without a permit in violation of ORC §§ 6111.04 and 6111.07.

29. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.

30. The Director has given consideration to and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

1. Respondent shall pay to the Ohio EPA the amount of forty six thousand seven hundred and nineteen dollars ($46,719.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the amount of thirty seven thousand three hundred and seventy five dollars ($37,375.00) within thirty (30) days of the effective date of these Orders. The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying Respondent and the Facilities, at the following address:

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

2. In lieu of paying the remaining nine thousand three hundred and forty four dollars ($9,344.00) of civil penalty, Respondent shall fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of nine thousand three hundred and forty four dollars ($9,344.00) to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall, within thirty (30) days of the effective date of these Orders, tender an official check made payable to "Treasurer, State of Ohio" for nine thousand three hundred and forty four dollars ($9,344.00). The official check, together with a letter identifying Respondent and the Facilities, shall be submitted to Carol Butler, or her successor, at:

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

Photocopies of both checks shall be sent to Ohio EPA, in accordance with Section X. of these Orders.

3. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 2, Respondent shall immediately pay to Ohio EPA nine thousand three hundred and forty four dollars ($9,344.00) of the civil penalty in accordance with the procedures in Order No. 1.

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 Surface Water 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 purposes of these Orders, a responsible official is defined in OAC Rule 3745-33-03(F).

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 activities occurring on or at the site.

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. RESERVATION OF RIGHTS

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

XI. 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.

XII. EFFECTIVE DATE

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

XIII. SIGNATORY AUTHORITY

Each undersigned representative or 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.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Craig W. Butler, Director

MAR 2 4 2015
Date

IT IS SO AGREED:

Enterprise Operating Products, LLC

Signature

2-24-15
Date

Leonard W. Mallett, Group Sr. Vice President
Printed or Typed Name and Title