OHIO E.P.A.

MAY 10 2013

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

V.E. Beard Oil Company 6990 Lima Street (S.R. 117) Huntsville, Ohio 43324	: : :	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: [signature] Date: 5-10-13

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Finding and Orders ("Orders") are issued to the V.E. Beard Oil Company, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Chapters 6109, 6111, and 3745.

II. PARTIES BOUND

These orders shall apply to and be binding upon Respondent and its successors in interest liable under Ohio law.

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:

Division of Surface Water

1. Respondent owns and operates a refueling station located at 6990 Lima Street (S.R. 117), Huntsville, Ohio in Logan County ("the Site"). Wastewater is discharged from an onsite oil/water separator to an unnamed tributary of Cherokee Mans Run. The unnamed tributary and Cherokee Mans Run are defined as "waters of the state" pursuant to ORC Section 6111.01.

2. Respondent held a National Pollutant Discharge Elimination System ("NPDES") permit, number 1IN00282*AD, for the discharges from the oil/water separator that

was effective on November 2, 2007, and which expired on November 30, 2012. Respondent is currently operating without a valid NPDES permit.

3. On June 2, 2006, a report of release of oil from the oil water separator was submitted to Ohio EPA and considered a violation of ORC 6111.04. This report was detailed in a NOV dated July 31, 2006 to the Respondent. The release was not reported, which is a violation of OAC 3750-25-25(2).

4. On August 23, 2007, an inspection/NOV letter was sent to Respondent detailing a reconnaissance inspection that occurred on August 16, 2007. It was documented that the effluent/receiving waters area was rated as marginal. It was also noted that Respondent needed to establish a sampling port prior to discharge, and the oil water separator location allowed storm water to exit the property with passing through the oil water separator.

5. On March 8, 2010, a NPDES permit Compliance/Schedule of Compliance NOV was sent to Respondent detailing the ongoing violations that have occurred at the site. Ohio EPA had reviewed the Electronic Discharge Monitoring Report ("eDMR") file for the site for the period of January 1, 2009 through December 31, 2009. During this period, there were no submittals for the facility.

6. In addition to the final effluent reporting violations, an October 13, 2010 letter to Respondent indicated the site was in non-compliance with its NPDES permit compliance schedule Part 1, C "Schedule of Compliance." These violations placed the Site in Significant Noncompliance (SNC) due to the failure to comply with the following items listed in the Schedule of Compliance: 1) submit a Permit to Install for a new oil/water separator, 2) initiate construction of the oil/water separator, 3) complete construction of the separator, and 4) provide written verification for the aforementioned items to Ohio EPA. On August 22, 2012, a NOV letter was sent to Respondent again notifying Respondent of the failure to comply with the Schedule of Compliance.

7. The August 22, 2012 NOV also indicated that Respondent continued to fail to submit eDMRs as required by the NPDES permit. Of the 68 eDMR reports required to be submitted since December 2007, Respondent has submitted only one eDMR (May 2010, 1 pH effluent limit violation) through October 2012.

8. On November 16, 2012, an inspection/NOV letter was sent to Respondent detailing a reconnaissance inspection that occurred on November 8, 2012. The letter noted the extent of non-compliance that has occurred during the permitting cycle including the failure to submit eDMRs, failure to meet the NPDES permit Schedule of Compliance dates, and failure to submit a timely NPDES renewal application.

9. Pursuant to ORC Section 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC Sections 6111.01 to 6111.08 or violate any order, rule, or

term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.

10. Pursuant to ORC section 6111.04(A), no person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state. Such an action is prohibited under ORC section 6111.04(A) and is declared to be a public nuisance unless the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired permit, or renewal of a permit, governing the causing or placement as provided in ORC sections 6111.01 to 6111.08 or if the person's application for renewal of such a permit is pending.

11. Pursuant to ORC § 6111.04(C), no person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit.

12. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the PTI requirements of Ohio Administrative Code ("OAC") Chapter 3745-42.

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

14. 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.

Division of Drinking and Ground Waters

15. Respondent owns and operates a "public water system" (PWS), which is also a "transient, non-community water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01, at the Site, aka Huntsville Marastop.

16. Respondent's PWS (PWS ID# OH4648212) is located at 6990 Lima Street (SR 117) (Logan County), Huntsville, Ohio, 43324.

17. Respondent's PWS obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01. The PWS has three (3) service connections and currently serves a population of seven hundred and eight (708) persons.

18. On December 7, 2002, Respondent's PWS was designated by the Director as a Class A PWS in accordance with OAC Rule 3745-7-03.

19. In accordance with OAC Rule 3745-7-02(A)(1), each person owning or operating a PWS, shall designate one or more operator of record to oversee the technical operation of the PWS. Each operator of record shall have a valid certification of a class equal to or greater than the classification of the PWS, distribution system or water treatment plant.

20. In violation of OAC Rule 3745-7-02(A)(1), Respondent failed to designate an operator of record with a valid Class A certification or above to oversee the technical operation of the PWS from December 7, 2002 to the effective date of these Orders.

21. In accordance with OAC Rule 3745-81-21(A)(2)(a), a non-community water system using only ground water and serving a population less than or equal to one thousand persons shall monitor for total coliforms at a minimum monitoring frequency of one sample each calendar quarter that the system provides water to the public.

22. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to routinely monitor for total coliform bacteria during the April 1 to June 30, 2009 monitoring period.

23. On May 3, 2010, Ohio EPA mailed Respondent a letter identifying significant regulatory deficiencies observed at Respondent's PWS during the April 21, 2010 sanitary survey. These deficiencies include, but are not limited to, the following:

    a. Maintain a certified water treatment plant operator's log in accordance with OAC Rule 3745-7-09.

24. In accordance with OAC Rule 3745-84-06(A), the Director may condition a license to operate (LTO) at any time to require corrections of violations of ORC Chapter 6109 and the administrative rules adopted thereunder. During the duration of these Orders, the Director intends to, at a minimum, issue conditioned LTOs to Respondent.

25. Each violation cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

The Director hereby issues the following Orders:

Division of Surface Water Orders:

1. Until a new NPDES permit is issued, Respondent shall properly operate and maintain its existing oil/water separator to achieve the best quality effluent possible and comply with all requirements of its current expired NPDES permit.

2. Respondent shall pay the amount of eight thousand six hundred dollars ($8,600.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Within thirty (30) 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" in the amount of $6,880.00. The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, to:

   Office of Fiscal Administration
   Ohio Environmental Protection Agency
   P.O. Box 1049
   Columbus, Ohio 43216-1049

   A copy of the check shall be sent to Mark Mann, Environmental Manager, Storm Water and Enforcement Section, or his successor, at the following address:

   Ohio EPA
   Division of Surface Water
   P.O. Box 1049
   Columbus, Ohio 43216-1049

3. In lieu of paying the remaining $1,720.00 of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a supplemental environmental project ("SEP") by making a contribution in the amount of $1,720.00 to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for that amount. The official check and a cover letter identifying the Respondent shall be submitted to Carol Butler, or her successor at:

   Ohio Environmental Protection Agency
   Office of Fiscal Administration
   P.O. Box 1049
   Columbus, OH 43216-1049

   A copy of the check shall be sent to Mark Mann, Environmental Manager, Storm Water and Enforcement Section, or his successor, at the following address:

   Ohio EPA
   Division of Surface Water
   P.O. Box 1049
   Columbus, OH 43216-1049

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 3, Respondent shall immediately pay to Ohio EPA the remaining $1,720.00 of civil penalty in accordance with the procedures in Order No 2.

Division of Drinking and Ground Water Orders:

5. From the effective date of these Orders until January 30, 2014, the 2013 LTO for Respondent's PWS is hereby conditioned with the terms set forth in these Orders.

6. From the effective date of these Orders, Respondent shall comply with all current and future monitoring schedules for the PWS issued by the Director.

7. From the effective date of these Orders, Respondent shall comply with OAC Rule 3745-7-02(A)(1), by ensuring an operator of record with a valid Class A certification or above is designated to oversee the technical operation of the PWS. Within fourteen (14) days of these Orders, Respondent shall submit to the Ohio EPA-DDAGW contact in Section X of these Orders an Operator of Record Notification Form as evidence of compliance.

8. From the effective date of these Orders, Respondent shall comply with total coliform bacteria monitoring requirements, in accordance with OAC Rules 3745-81-21.

9. Within thirty (30) days of the date of these Orders, Respondent shall submit verification to the Ohio EPA-DDAGW contact in Section X of these Orders that a certified water treatment plant operator's log is being maintained, in accordance with OAC Rule 3745-7-09.

10. Respondent shall pay the amount of three thousand, four hundred dollars ($3,400.00) in settlement of Ohio EPA Division of Drinking and Ground Water's (DDAGW) claim for civil penalties, which may be assessed pursuant to ORC § 6109. Within thirty (30) days of the effective date of these Orders, payment to Ohio EPA-DDAGW shall be made by an official check, made payable to the "Treasurer, State of Ohio" for three thousand, four hundred dollars ($3,400.00). The official check, together with a letter identifying the Respondent, shall be submitted to the following:

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

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 as defined in OAC rule 3745-33-03.

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. NOTICE

All documents required to be submitted by Respondent pursuant to the Division of Surface Water Orders shall be addressed to:

Ohio Environmental Protection Agency
Southwest District Office
Division of Surface Water
ATTN: DSW Enforcement Unit Supervisor
401 East Fifth Street
Dayton, Ohio 45402

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
ATTN: Manager, Storm water and Enforcement Section
50 West Town Street, Suite 700 [P.O. Box 1049]
Columbus, Ohio 43215 [43216-1049]

All documents required to be submitted by Respondent pursuant to the Division of Drinking and Ground Waters Orders shall be addressed to:

Ohio Environmental Protection Agency
Southwest District Office
Division of Drinking and Ground Waters
ATTN: Jeff Stark, DOCC
401 East Fifth Street
Dayton, Ohio 45402

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.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Scott J. Nally
Director

Date 5/9/13

IT IS SO AGREED:

V.E. Beard Oil Company

By

Date 4-25-13

Todd Dugan
Print Name

President
Title