

707-200-5500

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY** OHIO E.P.A.

In the Matter of:

OCT 18 2006

ENTERED DIRECTOR'S JOURNAL

Parma Community General Hospital : Director's Final Findings  
7007 Powers Boulevard : and Orders  
Parma, Ohio 44129 :

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Parma Community General Hospital ("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**

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 of 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 meanings as defined in ORC Chapter 3704 and the regulations promulgated thereunder.

**IV. FINDINGS**

The Director of the Ohio EPA has determined the following findings:

1. The City of Cleveland, Division of Air Quality ("CDAQ") acts as an agent of Ohio EPA for the Division of Air Pollution Control in Cuyahoga County.
2. Respondent operates a full service hospital located at 7007 Parma Blvd., Parma, Cuyahoga County. Respondent utilizes four natural gas fired boilers, Ohio EPA emissions units B004 through B007, that provide heat and hot water for the building. Respondent is a Title V major facility and as such is subject to the terms and conditions of the Title V permit issued for the facility.

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

 10/18/06

3. On May 5, 2003, CDAQ sent a Notice of Violation ("NOV") to Respondent for failing to submit a Fee Emissions Report ("FER") for calendar year 2001. CDAQ was notified by Ohio EPA Central Office that Respondent failed to submit a FER in violation of Ohio Administrative Code ("OAC") Rule 3745-78-02(A) which requires owners and operators of sources subject to the Title V permit program to submit a fee emission report that quantifies the actual emission data for particulate matter, sulfur dioxide, organic compounds, nitrogen oxides, and lead by April 15 of each year.

4. On June 23, 2003, Respondent submitted the required FER to Ohio EPA.

5. On July 25, 2003, CDAQ sent a NOV follow-up letter to Respondent acknowledging the receipt of the FER.

6. On May 21, 2004, CDAQ sent a letter to Respondent as notification of their failure to submit an annual compliance certification as required by OAC Rule 3745-77-07(B)(5) and the terms and conditions of the Title V permit issued to the facility.

7. On June 9 and as a follow-up on July 19, 2004, CDAQ inspected Respondent's facility. During the inspection the following violations were noted:

- Respondent operates an ethylene oxide sterilizer, known as Ohio EPA emissions unit Z010. CDAQ had not received a permit to install ("PTI") application for the emissions unit. Operating an air contaminant source without a PTI is a violation of OAC Rule 3745-31-02(A)(1). It was later determined that the ethylene oxide sterilizer was de minimus and thus did not require a PTI.
- Respondent failed to submit an updated Title V permit application to include the ethylene oxide sterilizer as required in OAC Rule 3745-77-04(D).
- Respondent had not submitted an annual compliance certification for each calendar year since 2000, in violation of the terms and conditions of the Title V permit issued to the facility.
- Respondent failed to submit an annual Title V FER for calendar year 2003, in violation of OAC Rule 3745-78-02(A).
- Respondent failed to include all insignificant emission units in the Title V permit application. New underground storage tanks and emergency electricity generators have been installed but not included in the Title V permit application.
- Respondent failed to submit quarterly deviation reports for their four boilers, Ohio EPA emissions units B001, B002, B003, B004, since entering the Title V permit program in September 1997, in violation of the general terms and conditions of their Title V permit.

- Respondent failed to maintain records of the heat and sulphur contents of the fuel oil used as a backup fuel source for their boilers as required by the terms and conditions of their Title V permit.

8. On September 21, 2004, CDAQ sent an NOV to Respondent for the above-mentioned violations.

9. On October 15, 2004, Respondent responded to CDAQ's September 21, 2004 NOV.

- Respondent submitted a PTI application for the ethylene oxide sterilizer. Respondent noted that the ethylene oxide sterilizer was included in the original Title V permit application but was unaware of the requirement to submit a PTI for the ethylene oxide sterilizer.
- Respondent stated that compliance certifications were submitted as required in 2003 and 2004.
- Respondent stated that the FER for 2003 was submitted on May 10, 2004, after the required due date of April 15, 2004.
- Respondent submitted a copy of the Title V permit application that included the ethylene oxide sterilizer.
- Respondent submitted a copy of the Entities Information submitted in 2004 that described all of the insignificant emissions units at the facility. This list included underground storage tanks and emergency generators.
- Respondent submitted the required deviation reports for the first three quarters of 2004. Respondent stated that they were not aware of the requirement to submit deviation reports. (This requirement is listed in the general terms and conditions of the Title V permit.)
- Respondent stated that samples of fuel oil have been shipped to a laboratory to obtain the required heat and sulphur contents as required by the Title V permit.

10. On November 4, 2004 CDAQ sent a letter to Respondent acknowledging the receipt of the corrective action plan items submitted on October 15, 2004.

11. CDAQ has determined that the compliance certifications submitted by Respondent for calendar years 2003, 2004, and 2005 were incomplete. CDAQ and Respondent exchanged several e-mails in an effort to correct the deficiencies in the compliance certifications. Respondent has not, to date, submitted acceptable versions of the compliance certifications.

12. 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 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 submit complete and accurate compliance certifications for calendar years 2003, 2004, and 2005 within sixty (60) days after the effective date of these Orders. Respondent shall develop a program to ensure compliance with the reporting requirements listed in the Title V permit issued to the facility.

2. Respondent shall pay the amount of twelve thousand, seven hundred, and seventy-five dollars (\$12,775) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. 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" for ten thousand, two hundred, and twenty dollars (\$10,220) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent to:

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

A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, OH 43216-1049

3. In lieu of paying the remaining two thousand five hundred, and fifty-five dollars (\$2,555) of 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 \$2,555 to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$2,555. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

4. A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, OH 43216 - 1049

5. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 3, Respondent shall immediately pay to Ohio EPA \$2,555 of the civil penalty in accordance with the procedures in Order 2.

## **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 Air Pollution Control 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 the person authorized to sign in OAC Rule 3745-35-02(B)(1) for a corporation or a duly authorized representative as that term is defined in the above-referenced rule.

## **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 Respondent's activities at the 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 Respondent.

## **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties. 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:

City of Cleveland  
Division of Air Quality  
1925 St. Clair Avenue  
Cleveland, Ohio 44114  
Attn: George Baker

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: John Paulian

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 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**

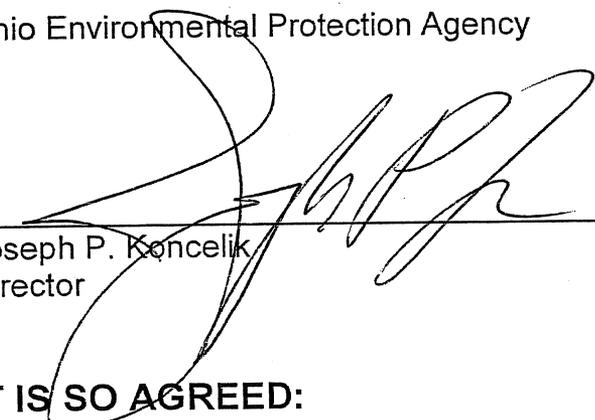
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

### **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

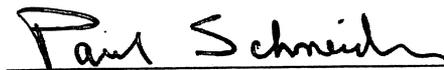
  
\_\_\_\_\_  
Joseph P. Kencelik  
Director

Date

10/11/06

#### **IT IS SO AGREED:**

Parma Community General Hospital

  
\_\_\_\_\_  
Signature

Date

9-25-2006

Paul Schneider  
Printed or Typed Name

V.P., Property and Facilities Management  
Title