

OHIO E.P.A.

BEFORE THE

DEC 28 2007

OHIO ENVIRONMENTAL PROTECTION AGENCY ENTERED DIRECTOR'S JOURNAL

In the Matter of:

JMW Trucking, Inc.
512 45th Street SW
Canton, Ohio 44706

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:

Director's Final Findings
and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to JMW Trucking, Inc. ("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 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 of the Facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

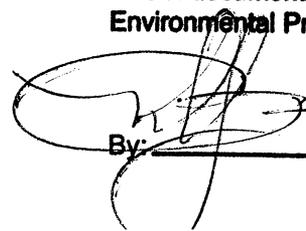
Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

- Respondent owns and operates a construction and demolition debris transfer station at 1800 Allen Ave in Canton, Ohio ("Facility"), which is known by Respondent as the "Luntz Rail Transfer Facility." At the Facility, Respondent brings waste in by rail car, transfers the waste to trucks, and transports the waste to an appropriate landfill. The Facility is permitted to transfer construction and demolition debris ("C&DD") and solid waste. It is identified by Ohio EPA as Facility ID number 1576051900.

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: 12/28/07

2. On February 22, 2001, Respondent applied for an air Permit to Install ("PTI") for the Facility. In the PTI application, Respondent identified two areas of operation at the Facility as "air contaminant sources" as that term is defined in OAC Rule 3745-31-01(I). The two areas are: (1) the roadways to the unloading facility and (2) the rail car unloading/truck loading operation.

3. OAC Rule 3745-31-06(D) states, in part, that the Director of Ohio EPA may impose special terms and conditions in a PTI as are appropriate or necessary to ensure compliance with applicable laws and to ensure adequate protection of the environment. ORC § 3704.05(C) prohibits any person from violating any terms or conditions of any permit issued by the Director of Ohio EPA.

4. On June 14, 2001, PTI No. 15-01459 was issued for the Facility. It identified the paved roadways, yard area and parking lots as emissions unit ("EU") F001, and the unloading of C&DD materials from rail cars into trucks as EU F002. Emission limitations and operational restrictions were designated for each emissions unit. Specifically, Part I General Term and Condition A.2 required Respondent, in part, to submit quarterly deviation reports of operational restrictions. The reports were required to be submitted by January 31, April 30, July 31, and October 31 of each year and were to cover the previous calendar quarters. Additionally, the reports were required to be submitted even if no deviations occurred during the quarter.

5. On August 4, 2005, Canton issued a Notice of Violation ("NOV") to Respondent for violations of the terms and conditions of the Facility's PTI, and of the Ohio Revised Code. Specifically, Ohio EPA identified that Respondent had failed to submit quarterly deviation reports detailing whether any deviations from the Facility's operational restrictions had occurred in 2002, 2003, 2004, and 2005, in violation of the terms and conditions of the Facility's PTI and ORC § 3704.05(C).

6. On November 8, 2005, Respondent submitted the quarterly deviation reports required by its September 26, 2002 PTI. The reports were for the fourth quarter of 2002 through the third quarter of 2005. The fourth quarter 2002 was due on January 31, 2003. Respondent failed to comply with the terms and conditions of Respondent's PTI by not submitting timely quarterly deviation reports, in violation ORC § 3704.05(C). The violations occurred from January 31, 2003, the date the first report was due, to November 8, 2005, when Respondent submitted the required reports.

7. 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 pay the amount of seventeen thousand dollars (\$17,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within fourteen (14) 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 thirteen thousand and six hundred dollars (\$13,600) of the total amount. The official check shall be submitted to Brenda Case, Fiscal Specialist, or her successor, together with a letter identifying the Respondent, to the following address:

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

2. In lieu of paying the remaining three thousand and four hundred dollars (\$3,400) of the civil penalty to Ohio EPA, Respondent shall, within fourteen (14) days of the effective date of these Orders, fund a supplemental environmental project ("SEP") by making a contribution in the amount of \$3,400 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$3,400. The official check shall be submitted to Brenda Case, Fiscal Specialist, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

3. A copy of each of the above checks 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
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$3,400 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V of these Orders.

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:

Air Pollution Control Division
Canton City Health Department
420 Market Avenue, North
Canton, Ohio 44702-1544
Attention: Dan Aleman

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control

P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Thomas Kalman

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



Chris Korleski
Director

12/27/07

Date

IT IS SO AGREED:

JMW Trucking, Inc.



Signature

John D. Stetz

Printed or Typed Name

President

Title

12-18-07

Date