

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

FEB - 1 2005

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Marathon Ashland Petroleum LLC
539 South Main Street
Findlay, Ohio 45840

Director's Emergency Final Findings
and Orders

Respondent

I. JURISDICTION

These Director's Emergency Final Findings and Orders ("Orders") are issued to Marathon Ashland Petroleum LLC ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") § 6111.06.

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 or composition of Respondent or ownership 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 6111., and the rules promulgated thereunder.

IV. FINDINGS OF FACT

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

1. Respondent, a Delaware corporation registered in Ohio as a foreign limited liability company, owns and operates the Marathon Ashland Petroleum LLC, Cincinnati Light Oil Terminal ("Facility"), a bulk fuels terminal (SIC 5171) located at 4015 River Road, Cincinnati, Ohio, adjacent to the Ohio River.
2. The Facility, through three outfalls, discharges wastewater to the Ohio River under Ohio National Pollutant Discharge Elimination System Permit No. 1IN00025*ED, OH0009598, ("NPDES Permit").
3. The NPDES Permit has limitations for Oil and Grease and pH.

Environmental Protection Agency
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4. On January 7, 2005, Ohio EPA received a phone call from Steve Chalupa, Environmental Professional, a representative of the Facility, indicating that the Ohio River was rising, and would crest above the dikes protecting the bulk storage tanks for gasoline and other light oil products. There are nine (9) tanks that are affected, which are identified in Attachment A, which is attached hereto and incorporated herein. Mr. Chalupa stated that Respondent would be filling the tanks with river water to keep them from breaking free and floating downstream on the Ohio River.
5. The tanks floating downstream would be a public hazard. The flammability of the material in the tanks would be an added threat to public health and safety. The discharge of petroleum products in the tanks could cause a violation of water quality standards and could endanger downstream drinking water intakes.
6. On January 27, 2005, Respondent further informed the Ohio EPA that:
 - a. With cold winter temperatures, water (even in very small amounts) will freeze and expand which may cause valves and gaskets to crack and/or separate. While the water is frozen, this may not be noticed or it may only result in a small release. However, once the water in the lines and/or valves thaw the gaskets may fail. This could allow a small amount of product to be release or it could lead to an uncontrollable release. Depending on the location of the failed valve/gasket, the environment could be impacted.
 - b. The tanks are equipped with floating roofs and secondary seals. If water freezes and adheres to the walls of the tanks, there is the potential for the seals to be torn or distorted with any movement as they run against the ice. This could allow excess vapors to be emitted from the storage tanks.
 - c. The tanks containing river ballast water are temporarily out of service. This effectively reduces Respondent's capacity to store product for and supply product to the Greater Cincinnati, Ohio area. This is a short term reduction that could be extended if Respondent has to make equipment repairs and/or replacement of environmental controls.

These environmental and other risks can be can be mitigated by draining the water immediately.

7. Respondent seeks to recover petroleum products in the tanks and remove the water from the storage tanks. Respondent proposes to treat water discharged from the tanks using a carbon treatment process that will eliminate petroleum constituents to de minimus (detection) levels. The impact of such a discharge of the treated water on the Ohio River, if any, will be well below limits required by water quality standards.

8. ORC § 6111.06(C) provides, in part, that '(w)henever the director officially determines that an emergency exists requiring immediate action to protect the public health or welfare, the director may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding division (A) of this section, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately'
9. Respondent is a "person" as defined in ORC § 6111.01(I).
10. Based upon the foregoing, the Director of the Ohio EPA has determined that conditions at the Facility pose an emergency requiring immediate action to protect health or safety.

V. ORDERS

1. Within seven (7) days of the effective date of these Orders, Respondent shall notify Ohio EPA in writing as to whether the contents of the bulk storage tanks will be discharged into the Ohio River, or be taken off-site for treatment/disposal at a centralized waste treatment facility.
 - a. If treatment/disposal is to be offsite, such notification shall identify the mode of transport and name of the transporter, the date of pickup, and the name and location of the treatment/disposal facility.
 - b. If treatment/disposal is to be onsite, such notification shall include a plan, for the review, modification and approval of Ohio EPA, detailing the manner in which the contents of the bulk storage tanks will be analyzed, treated, and discharged to the Ohio River.
2. Upon Ohio EPA's modification and/or approval of the plan to treat/discharge to the Ohio River, Respondent shall implement said plan and comply with the following discharge limitations:
 - a. Benzene - Less than 2 µg/L;
 - b. Toluene - Less than 2 µg/L;
 - c. Ethylbenzene - Less than 2 µg/L;
 - d. Xylene - Less than 2 µg/L;
 - e. Oil and Grease - Less than 10 mg/L; and
 - f. pH - 6.5 to 9.0 SU.

Respondents shall maintain a log showing the river level, the date and time of the discharge, the flow rate, and the sampling data until the wastewater is discharged. Each tank shall be characterized and discharge samples shall be grabbed during the beginning, middle, and end of the tank discharge.

3. With fifty (50) days after the effective date of the Orders, Respondents shall complete the removal of the contents from the bulk storage tanks. Within five (5) days of completion of said removal, written notification shall be provided to Ohio EPA.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate sixty (60) days after the effective date of these Orders.

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 other statutes or regulations applicable to Respondent..

VII. NOTICE

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

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

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

IX. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 6111., or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent

X. EFFECTIVE DATE

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency



Joseph P. Korcelik
Director

2/1/05
Date

ATTACHMENT A

Tank #	Opening	Closing	Water Volume		Product Volume		Product
			Gallons	Bbls	Gallons	Bbls	
7	0-0-0	20-2-8	193,646	4,611	0	0	Residual HiSol 10
11	0-0-0	20-1-0	187,994	4,476	0	0	Residual HiSol 15
21	0-0-0	27-1-0	120,359	2,866	0	0	Clean & Gas Free
24	0-0-0	20-0-4	187,881	4,473	0	0	Clean & Gas Free
25	0-0-0	20-2-4	188,932	4,498	0	0	Clean & Gas Free
29	4-0-12	20-3-15	611,935	14,570	153,752	3,661	Blend Grade
50	4-10-10	20-5-13	329,798	7,852	105,832	2,520	100 Neutral Lube Oil
51	5-3-9	20-0-15	311,705	7,422	96,401	2,295	100 Neutral Lube Oil
53	12-10-4	20-0-9	<u>152,203</u>	<u>3,624</u>	<u>266,712</u>	<u>6,350</u>	Diesel Additive
			2,284,453	54,392	622,697	14,826	