

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
Ohio River Pipe Line LLC
539 S. Main Street
Findlay, Ohio 45840-3295

Respondent

Director's Final Findings
and Orders

OHIO E.P.A.
SEP 24 2003
DIRECTOR'S JOURNAL

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Ohio River Pipe Line 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 its successors in interest liable under Ohio law. No change in ownership of the Respondent or of the Pipeline Project (as described more fully below) 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

All the findings necessary for the issuance of these Orders pursuant to ORC Sections 6111.03 and 3745.01 have been made by the Director, not the Respondent, and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any fact, violation or liability.

The Director has determined the following findings of fact:

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.

By Doreen Jacobs Date 9/24/03

1. Respondent is the developer of a refined petroleum pipeline (hereinafter referred to as the Pipeline Project) that originates in Kenova, West Virginia. The pipeline enters Ohio at South Point, Ohio and travels through Lawrence, Gallia, Jackson, Vinton, Hocking, Fairfield, Pickaway and Franklin Counties. The pipeline ends in Columbus, Ohio.
2. Storm water from the site discharges to numerous streams and headwaters, both named and unnamed, all of which are "waters of the state," as defined by ORC Section 6111.01(H). Sediment contained in said storm water constitutes "other wastes," as defined in ORC Section 6111.01(D). Placement of this waste into waters of the state constitutes "pollution," as defined in ORC Section 6111.01(A).
3. Because construction of the Pipeline Project constitutes a construction site, as defined in 40 CFR 122, which disturbs more than five (5) acres of land (the standard at the time of the project's permitting), Respondent was required to submit a Notice of Intent (NOI) to obtain coverage under the Ohio EPA NPDES General Permit for Storm Water Discharges Associated with Construction Activity (Storm Water General Permit).
4. On or about November 14, 2001, Respondent submitted a Notice of Intent (NOI) to obtain coverage under the Storm Water General Permit. Prior to granting coverage under the Storm Water General Permit, Respondent submitted a storm water pollution prevention plan to the Ohio EPA for review and approval. Ohio EPA subsequently approved Respondent's March 2002 plan (the "Storm Water Pollution Prevention Plan").
5. Ohio EPA granted Respondent coverage under General Permit No. OHR100000 (facility permit number OHR111470) effective August 2, 2002. Respondent was required to comply with the terms and conditions of the Storm Water General Permit, including the Storm Water Pollution Prevention Plan, as of that date.
6. Ohio EPA renewed the Storm Water Permit on April 21, 2003 with General Permit Number OHC000002. (the "Renewal Permit"). Pursuant to Part II.E. of the Renewal Permit, Respondent has continuing coverage under General Permit No. OHR100000 as Ohio EPA has yet to officially request Respondent to seek coverage under with General Permit Number OHC000002. (the "Renewal Permit").
7. The physical route of the Pipeline Project involves numerous instances in which the pipeline crosses under or through "navigable waters" as defined by 33 USC Section 1362. These crossings involve the discharge of dredged or fill material into navigable waters thus requiring a permit from the United States Army Corps of Engineers (hereinafter referred to as the "Corps") under Section 404 of the Clean Water Act and a 401 Water Quality Certification (hereinafter referred to as

the "401 Certification") from the State of Ohio under Section 401 of the Clean Water Act.

8. Respondent submitted an application for a 404 Permit to the Corps on September 17, 2001. Respondent submitted an application for a 401 Certification to Ohio EPA on September 18, 2001. Respondent supplemented each application with additional information and plans subsequent to the original submittals. The 404 Permit and 401 Certification were issued on August 2, 2002. Respondent was required to comply with the terms and conditions of the 401 Certification/404 Permit as of August 2, 2002.
9. Pursuant to ORC Section 6111.04, 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.
10. 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.
11. Part III.C.5.b.i.(A) of the Ohio EPA Storm Water General Permit requires the initiation of appropriate vegetative practices on all disturbed areas within seven (7) days if they are to remain dormant (undisturbed) for more than forty-five (45) days. Inspections conducted by Ohio EPA in Gallia and Lawrence Counties on November 22, 2002, and January 8, 2003, in Hocking County on May 15, 2003 and July 17, 2003 and in Jackson County on May 15, 2003, July 15, 2003 and July 17, 2003 revealed instances where disturbed areas had been left dormant for more than 45 days without vegetative cover in violation of the Storm Water General Permit, and ORC sections 6111.04 and 6111.07.
12. Part III.C.5.b.i.(A) of the Ohio EPA Storm Water General Permit and the Storm Water Pollution Prevention Plan require that permanent or temporary soil stabilization be applied to disturbed areas within seven (7) days after final grade is reached on any portion of the site. Inspections conducted by Ohio EPA in Gallia and Lawrence Counties on November 22, 2002, and January 8, 2003, in Hocking County on May 15, 2003 and July 17, 2003 and in Jackson County on May 15, 2003, July 15, 2003 and July 17, 2003 revealed there were areas of the site that had reached final grade that had not been stabilized in violation of the Storm Water General Permit, the Storm Water Pollution Prevention Plan and ORC sections 6111.04 and 6111.07.
13. Part III.C.5.b.i.(B)(1) of the Ohio EPA Storm Water General Permit and the

Storm Water Pollution Prevention Plan require that sediment control structures be functional throughout earth disturbing activity in areas involving stream crossings, and that structural sediment controls including sediment ponds and perimeter sediment barriers are to be installed as the first step of grading and within seven (7) days from the start of grubbing. The controls are to continue to function until the up-slope development area is restabilized. Inspections conducted by Ohio EPA in Gallia and Lawrence Counties on November 22, 2002, and January 8, 2003, in Hocking County on May 15, 2003 and July 17, 2003 and in Jackson County on May 15, 2003, July 15, 2003 and July 17, 2003 revealed locations that perimeter sediment barriers at the site were not installed in the aforementioned time frame and/or did not remain functional throughout all earth-disturbing activity in violation of the Storm Water General Permit, the Storm Water Pollution Prevention Plan and ORC sections 6111.04 and 6111.07.

14. Part III.C.5.b.i.(A) of the Ohio EPA Storm Water General Permit and the Storm Water Pollution Prevention Plan require that for areas within fifty (50) feet of any stream, first order or larger, soil stabilization practices be applied within two (2) days on all inactive, disturbed areas. Inspections conducted by Ohio EPA in Gallia and Lawrence Counties on November 22, 2002, and January 8, 2003, in Hocking County on May 15, 2003 and July 17, 2003 and in Jackson County on May 15, 2003, July 15, 2003 and July 17, 2003 revealed that there are areas along the pipeline within fifty (50) feet of a stream on which Respondent has failed to apply soil stabilization practices on inactive, disturbed areas in violation of the Storm Water General Permit, the Storm Water Pollution Prevention Plan and ORC sections 6111.04 and 6111.07.
15. In accordance with the General Storm Water Permit and the Storm Water Pollution Prevention Plan, Respondent indicated that temporary stabilization measures (crimped mulch cover at two (2) tons per acre) would be implemented to all barren areas within seven (7) days of initial disturbance or any subsequent disturbance. Inspections conducted by Ohio EPA in Gallia and Lawrence Counties on November 22, 2002, and January 8, 2003, in Hocking County on May 15, 2003 and July 17, 2003 and in Jackson County on May 15, 2003, July 15, 2003 and July 17, 2003 and in Pickaway County on June 9, 2003 revealed that there were disturbed areas which had been left unprotected in excess of seven (7) days, in violation of the Storm Water General Permit, the Storm Water Pollution Prevention Plan and ORC sections 6111.04 and 6111.07.
16. Based upon investigations performed by Ohio EPA and discussions with Respondent, Ohio EPA believes that the violations cited in Finding No. 11 through Finding No. 15 occurred throughout the length of the Pipeline Project during the period of time between the initiation of the Pipeline Project and the effective date of these Orders. Said violations are incorporated by reference into

these Orders.

17. Part II.G. of the 401 Certification states that the width of pipeline crossings through non-wetland and non-stream areas shall be no wider than seventy-five (75) feet. An inspection conducted by Ohio EPA on November 22, 2002 in Gallia County revealed that, in the vicinity of Block Valve 3, the width of the disturbed area exceeded 75 feet. Sedimentation of a headwater flowing to Symmes Creek was observed. In addition an inspection by the Corps of Engineers on June 30, 2003, revealed that the 75 foot width had been exceeded in the vicinity of the S159 crossing, the S172 crossing, and S173 crossing. The exceedence at the S172 and S173 crossing resulted in the channelization of approximately 150 feet of stream. These exceedences resulted in disturbances outside of the 75 foot corridor in violation of the 401 Certification and ORC sections 6111.04 and 6111.07.
18. Part II.I. of the 401 Certification states that the applicant shall comply with requirements contained in the March 2002 Storm Water Pollution Prevention Plan. Therefore each violation noted in Findings No. 12 through 15 above is also a violation of the 401 Certification.
19. On the following dates Ohio EPA issued letters to the Respondent in response to some of the aforementioned inspections notifying the Respondent of the violations discovered as a result of those inspections: December 20, 2002; January 17, 2003; February 11, 2003; and May 29, 2003. Similarly, the Corps issued letters to the Respondent on the following dates notifying the Respondent of the violations determined during its inspections: November 14, 2002; May 2, 2003; and June 20, 2003. All of the violations noted in the aforementioned letters are incorporated by reference into these Orders. Respondent has provided written responses to all of the letters from the agencies.
20. Pursuant to a letter dated July 31, 2003, the Respondent reported an unpermitted 0.09-acre impact to a Category 2 wetland in Pickaway County, Ohio.
21. On several occasions during horizontal directional drilling under wetlands or streams, Respondent experienced "frac-out" events some of which resulted in the unauthorized discharge of drilling mud to waters of the state in violation of ORC sections 6111.04 and 6111.07. These events occurred as follows:

Date of Release	Stream Id/Wetland Id	Amount (gallons)	County
December 5, 2002	Symmes Creek trib, S109	10	Gallia

December 10, 2002	Symmes Creek (WWH,SRW), S45B	15	Gallia
December 18, 2002	Wetland 9	42	Gallia
January 16, 2003	Dry Run (WWH), S404	2	Franklin
February 14, 2003	Wetland 45	20	Jackson
April 29, 2003	Scioto River trib, S412	5	Pickaway
May 1, 2003	Scioto River trib, S412	250	Pickaway
July 7, 2003	East Fork Queer Creek (EWH, SHQW), S235r	20	Hocking
July 31, 2003	Muddy Prairie Run	10	Fairfield
August 4, 2003	Muddy Prairie Run	10	Fairfield
August 23, 2003	Muddy Prairie Run, S365	30	Fairfield
August 29, 2003	Little Walnut Creek, S298	400	Fairfield

22. The Corps suspended Respondent's 404 Permit on July 2, 2003. On July 5, 2003, the Corps authorized Respondent to conduct certain activities pursuant to a Corps-approved Interim Action Plan.
23. After considering comments from Ohio EPA, the Corps approved Respondent's Permit Compliance Plan, which document addresses certain actions and plans to address and maintain compliance with the Storm Water General Permit, the 401 Certification and the Corps 404 Permit conditions. The Permit Compliance Plan was approved on August 15, 2003 and is attached hereto as "Attachment I" and is incorporated into these Orders as if fully written herein. Based on the approval of Respondent's Permit Compliance Plan and the progress made by Respondent in implementing the Corps-approved Interim Action Plan, the Corps reinstated Respondent's 404 Permit on August 15, 2003.
24. 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. From the effective date of these Orders and until all disturbed areas on the site meet the criteria for final stabilization as outlined in the Storm Water General Permit and Respondent's Storm Water Pollution Prevention Plan, Respondent shall implement and comply with the approved Permit Compliance Plan dated August 15, 2003, the Storm Water General Permit number OHR111470, the Storm Water Pollution Prevention Plan as modified in accordance with Order No. 2 and the 401 Water Quality Certification.
2. When implementing temporary stabilization and final stabilization measures pursuant to the requirements of these Orders, Respondent shall seed and mulch all agricultural areas, except those agricultural areas for which Respondent has obtained a written document, signed by the parcel owner or individual that is authorized to conduct agricultural activities on the parcel, demonstrating that the party does not wish to have the parcel mulched and/or seeded as part of temporary stabilization or final stabilization. Alternatively, Respondent may submit a sworn affidavit from its representative averring that the parcel owner or individual that is authorized to conduct agricultural activities on the parcel has affirmatively indicated a desire to not have the parcel mulched and/or seeded as part of the temporary stabilization or final stabilization. Respondent shall maintain copies of all written documents obtained pursuant to this paragraph in the same manner as all other documents required to be maintained pursuant to the Storm Water Pollution Prevention Plan. "Agricultural Areas" shall include those areas that are actively being cropped or tilled fields that have not remained idle in excess of one growing season. "Agricultural Areas" shall not include grass pastures or other such areas that are not in crop production.
3. From the effective date of these Orders and until all disturbed areas on the site meet the criteria for final stabilization as outlined in the Storm Water General Permit and Respondent's Storm Water Pollution Prevention Plan, Respondent shall submit completed inspection report Forms A and B in Appendix C of the Storm Water Pollution Prevention Plan to Ohio EPA on a weekly basis. Each Monday, Respondent shall submit the reports from Saturday through Friday of the prior week to the appropriate Ohio EPA District Office. The inspection reports shall clearly identify the status of all sediment and erosion controls. The inspection reports shall clearly identify all disturbed areas and the date in which they were initially disturbed.
4. Within twenty-one (21) days of the effective date of these Orders, Respondent shall obtain final stabilization or temporary stabilization, as outlined in the Storm Water General Permit and the Storm Water Pollution Prevention Plan, along all segments of the right-of-way where the pipeline has been installed and backfilled

as of the effective date of these Orders. Respondent shall dedicate a minimum of four (4) work crews to address final stabilization activities in accordance with this order.

5. Within three (3) business days of receipt of written notification by Ohio EPA that identifies an area where storm water BMPs are not being adequately implemented, Respondent shall provide a written response plan to Ohio EPA that details the intended corrective measures including the time frame for implementation.
6. Respondent shall pay to Ohio EPA one hundred and four thousand, seven hundred and thirty-eight dollars (\$104,738.00) in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter 6111 of the Ohio Revised Code. This payment shall be made by tendering a check payable to the "**Treasurer, State of Ohio**" for the full amount within thirty (30) days after the effective date of these Findings and Orders to the following address:

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

A photo copy of the check shall be sent to Ohio EPA's Division of Surface Water, Attn: Mark Mann at the address referenced above.

7. Within thirty (30) days of the effective date of these Orders, Respondent shall submit to the Ohio EPA a proposal for the implementation of 2,500 feet of additional stream mitigation activities in connection with the Pipeline Project. The proposal shall provide for the preservation in perpetuity, through the use of conservation easements, of streams within watersheds that may have been impacted by the alleged violations cited in the above Findings. Respondent shall implement the stream mitigation activities within 45 days of the approval of the proposal by the Ohio EPA. The Ohio EPA may give one 45 day extension of such implementation deadline if Respondent requests the same in writing.
8. Within thirty (30) days of the effective date of these Orders, Respondent shall purchase 0.5 acre of wetland mitigation credits from the Slate Run Mitigation Bank and provide Ohio EPA with a fully executed agreement with the mitigation bank.

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 the Respondent. For purposes of these Orders, a responsible official is defined in OAC Rule 3745-33-03(D)(1) for a corporation, OAC Rule 3745-33-03(D)(2) for a partnership, OAC Rule 3745-33-03(D)(3) for a sole proprietorship, and OAC Rule 3745-33-03(D)(4) for a municipal, state, or other public facility.

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 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



Christopher Jones
Director

9-23-03
Date

IT IS SO AGREED:

Ohio River Pipe Line LLC



Signature
DONALD P. BOZELL
Printed or Typed Name
PRESIDENT
Title

9/11/03
Date



ATTACHMENT I



Ohio River Pipe Line LLC Cardinal Pipeline Project Permit Compliance Plan

Ohio River Pipe Line LLC (ORPL) will implement the following measures for the duration of the Cardinal Pipeline Project to ensure environmental compliance with permit conditions.

Long Term Permit Compliance Plan

1. Work Plan for Continuation of Environmental/Cleanup Work – Environmental and Contractor Resources

Within twenty-one (21) days of the reinstatement of the 404 Permit for the Cardinal Pipeline Project, ORPL shall obtain final stabilization or temporary stabilization along all segments of the right-of-way where the pipeline has been installed and backfilled as follows:

- a. Additional environmental crews will be added, as necessary, to address any compliance issues identified within the current work areas for each pipeline spread.
- b. Cleanup crews located behind each pipeline spread will have sufficient resources to maintain a maximum distance of 2 miles behind pipeline backfill operations, and an intermediate mulch/seed crew will be maintained within each spread to meet compliance requirements for temporary stabilization. Each spread will also employ environmental crews to install and maintain appropriate environmental controls.
- c. Additional routine maintenance crews will be added, as necessary, to address routine maintenance items identified in the cleaned up areas by weekly Environmental inspections.

2. Ongoing Environmental Compliance

- a. Environmental protection measures and best management practices (BMP's), as listed in the Section 404 Permit, will be fully implemented in accordance with all State and Federal permit conditions. Appropriate erosion/sedimentation controls will be installed in conformance with all Federal and State permits, BMP's and within the time frames specified in such permits. BMP's must be implemented in such a manner to avoid or at least minimize erosion and sediment from entering waters of the United States, including wetlands. Such BMP's will include but not be limited to:
 - Mulching of exposed soil will be completed within 7 days of earth disturbing activities at a rate of 2 tons per acre. Crimping of the straw mulch, where feasible, must be conducted to prevent loss by wind and water and to ensure effective erosion control.

- Vegetative stabilization – temporary or permanent seeding. ORPL will develop and maintain a schedule for temporary and permanent seeding. Temporary seed shall be applied immediately in critical areas and on exposed soils that have not been graded or reworked for 45 days or more. Permanent or temporary soil stabilization must be applied to disturbed areas within 7 days after final grade is reached on any portion of the Right-of-Way (weather permitting).
 - Matting on erodable areas. Restore and stabilize stream banks within 24 hours of completing the crossing. Install erosion control fabric, such as jute thatching or bonded fiber blankets on stream banks as necessary in accordance with BMP #13. Anchor the erosion control fabric with staples or other appropriate devices.
 - Straw bales will be dug in and staked in place in accordance with BMP #15 (use 2 stakes per bale).
 - Silt fence: bury the bottom flap at least 6-inches below the ground surface.
 - Water bars/slope breakers will be installed, at a minimum, according to the spacing requirements and dimensions identified in the permit. Additional water bars and slope breakers should be installed where necessary. Direct the outfall of each slope breaker to a stable, well vegetated area, or construct an energy dissipating device (staked hay bale or silt fence) at the end of the breaker.
 - Trench breakers are necessary to slow the flow of subsurface water along the trench. In addition to installation of trench breakers on steep slopes, install trench breakers at the base of slopes adjacent to streams and wetlands and where needed to avoid draining of a wetland.
 - Temporary erosion and sediment control. Install sediment barriers within 24 hours after initial disturbance of a water body or adjacent upland. Sediment barriers must be properly maintained throughout construction and reinstalled as necessary until replaced by permanent erosion controls or restoration of adjacent uplands is complete. Install sediment barriers across the entire construction Right-of-Way at all water body crossings. Where water bodies are adjacent to the Right-of-Way install sediment barriers along the edge of the Right-of-Way as necessary to contain the spoil and sediment within the Right-of-Way.
 - Trench Dewatering. Dewater the trench in such a manner that no heavily silt laden water flows into a wetland or water body.
- b. Wet cut and dry cut stream crossings will be constructed and installed in accordance with BMP #20 as shown in the Storm Water Pollution Prevention Plan. All spoil from stream crossings must be placed at least 10 feet away from the waters edge. Sediment barriers will be installed to prevent the flow of sediment into any stream. If the pipeline parallels a stream, attempt to maintain at least 15 feet of undisturbed vegetation between the stream and the Right-of-Way except at the crossing location.
- c. Timber Mat Equipment crossings will be constructed in accordance with BMP #21 as shown in the Storm Water Pollution Prevention Plan prior to any equipment crossing the stream (except for the equipment necessary for Right-of-Way clearing). Mats will be maintained in clean condition and free of gaps. Appropriate erosion control devices will be installed and maintained to prevent washing of upland sediment onto mats (or into adjacent wetlands or waterbodies).

- d. Erosion control measures will be inspected daily in areas of active construction, weekly in areas without active construction and within 24 hours after a 0.5" rain/storm event as specified in the permit.

3. Environmental QA/QC Staffing Plan

a. Reorganization of Inspection

- i. A senior environmental professional is assigned to the Cardinal project staff to review the current environmental inspection and compliance process and recommend changes and improvements.
- ii. After review and approval of the recommendations, a senior environmental professional will be retained as the Permit Compliance Inspection Team Leader.

b. Environmental QA/QC Staffing Plan

- i. A Compliance Team Leader is assigned to monitor and supervise all environmental compliance activities. The Compliance Team Leader reports directly to the Manager of MAP Marketing and Transportation Engineering and has the authority to resolve permit compliance issues, if necessary.
- ii. The Permit Compliance Inspection Team Leader will be responsible for managing all project permit inspection activities. All Environmental Inspectors will report to the Permit Compliance Inspection Team Leader. The Permit Compliance Inspection Team Leader will report to the Compliance Team Leader.
- iii. A Qualified Environmental Inspector is assigned to each of the cleanup, mulching, and environmental crews implementing controls associated with construction.
- iv. The Inspection Team will be adequately staffed with qualified Environmental Inspectors to help assure Cardinal project permit compliance.
- v. Environmental Inspectors will have full stop-work authority for any item not being performed in accordance with the permits. As a result, there will be multiple environmental inspectors per spread with stop-work authority.
- vi. An Environmental Inspector will be assigned to each pipeline spread to ensure that pipeline construction activities are performed in accordance with the permit conditions (plus perform routine weekly and after-storm inspections).
- vii. Staffing will be adjusted as necessary based on project needs and to ensure permit compliance.

4. Communication

a. Governmental Agencies

- i. Frequency and type of effective, two-way communication will be established between Cardinal project environmental management and the USACE, OEPA and ODNR.
- ii. Regular progress reports and updates will be given to the USACE and the OEPA by Cardinal project environmental management. Format, content and timing of the reports will be mutually agreed upon by the governing agencies and the Cardinal Project Team.
- iii. Ohio River Pipe Line LLC will initiate reporting of any non-compliance activities to the appropriate agencies in a timely manner. The report should describe the location and nature of the non-compliance, corrective actions taken, and what steps are being implemented to prevent future occurrences.

b. Environmental Inspection and Contractors

i. Environmental Inspectors will be assigned to construction crews as outlined in the Environmental QA/QC Staffing Plan (above) and will monitor activities for environmental compliance. Within the construction crews, all environmental inspection compliance items will be communicated by the Environmental Inspector to the crew foreman. If the item cannot be resolved, it will be brought to the attention of the Chief Inspector responsible for the spread. If the issue still cannot be resolved, it will be brought to the Permit Compliance Inspection Team Leader for resolution with Project Management staff.

5. Training

- a. All construction project personnel will receive basic HES training upon their start of work on the Cardinal Pipeline Project. Training will be updated regularly through Tailgate Safety Meetings or other effective means. Specific additional job task related training will be given as necessary by Cardinal Project Team personnel qualified to give such training.
- b. All Environmental Inspectors will be fully trained in performance of their inspection duties and demonstrate their competency.

6. Schedule

- a. Prior to resuming mainline construction activities, a meeting will be held with contractor supervision and management and all environmental compliance personnel to outline plan, schedule, roles and responsibilities. Update meetings will be held as necessary.
- b. The Permit Compliance Plan will be implemented upon approval by the USACE and before resuming mainline construction activities.

7. Changes to Plan

- a. This Permit Compliance Plan may be changed or modified to better suit changing construction conditions, and as mutually agreed upon by the USACE and Cardinal Pipeline Project Compliance Team Leader and approved in writing by USACE.

Ohio River Pipe Line LLC

APPROVED AS TO FORM
bet

By: DP Bozell
Donald P. Bozell

Its: PRESIDENT

Dated: Aug. 15, 2003