

IN THE COURT OF COMMON PLEAS  
MAHONING COUNTY, OHIO

STATE OF OHIO, ex. rel.,	:	
ANTHONY J. CELEBREZZE, JR.	:	
ATTORNEY GENERAL OF OHIO,	:	Case No.
	:	
Plaintiff,	:	
	:	
vs.	:	JUDGE
	:	
RYDER TRUCKSTOPS, INC. <u>et al.</u> ,	:	
	:	
Defendants.	:	

*Filed 9/17/86*

CONSENT ORDER

The State of Ohio ("Plaintiff"), on the relation of its Attorney General, Anthony J. Celebrezze, Jr., filed a Complaint seeking injunctive relief and civil penalties for alleged violations of Ohio Revised Code Chapter 6111 by Defendants Ryder Truckstops, Inc., ("Ryder"), Truck Stops of America, Inc. ("Truck Stops") and SOHIO Oil Company ("Sohio"). This Consent Order constitutes the final Order of this Court regarding the issues of permanent injunctive relief and of civil penalties.

Therefore, without trial of any issue of law or of fact, and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter herein pursuant to Chapter 6111 of the Ohio Revised Code. The Complaint states a claim upon which relief can be granted.

This Court has jurisdiction over the parties hereto. Venue is proper in this Court.

## II. PERSONS BOUND

2. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, their agents, employees, assigns, successors, predecessors in interest, and those persons in active concert or participation with them or who receive notice of this Order whether by personal service or otherwise.

## III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendants operated a gasoline and diesel fuel service station and grounds at 11028 Market Street, North Lima, Ohio (hereinafter "the Site") in violation of various state water pollution laws. By entering into this Consent Order, and without admitting liability for the violations alleged in the Complaint, Defendants wish to settle and resolve disputed claims and to remove and clean up certain contaminated ground and surface waters of the State at the site. Except as otherwise may be provided for by law, compliance with the terms of this Consent Order shall constitute full satisfaction of any civil or administrative liability, claims or allegations by Defendants, their past or current directors, and their past or current employees, to Plaintiff for all actions alleged in the Complaint.

#### IV. CIVIL PENALTIES

4. Defendant Ryder shall pay to the State of Ohio a civil penalty of Three Hundred Fifty Thousand Dollars (\$350,000.00) within ten days after the entry of this Consent Order. Defendants Truck Stops and Sohio shall pay to the State of Ohio a civil penalty of One Hundred Ten Thousand Dollars (\$110,000.00) within ten days after the entry of this Consent Order. Each payment required by this paragraph shall be made by delivering to Plaintiff's counsel, or his successor in the Office of the Attorney General, a check in such amount made to the order of the "Treasurer of the State of Ohio" for payment into the State Treasury, pursuant to R.C. 3745.12, to the credit of the Immediate Removal Special Account.

#### V. CLEANUP

##### A. Oil Water Separator

5. To prevent the further contamination of the waters of the State with oil and grease contained in storm water and/or groundwater as it runs off of the site, Defendants have constructed an oil-water separator (hereinafter "OWS"). The discharge of effluent from the OWS is limited by National Pollutant Discharge Elimination System ("NPDES") Permit Number 31N00074\*AD (a copy is attached as Exhibit A) to discharges of oil and grease in the following amounts ("effluent limits"):

<u>Parameter</u>	<u>Concentration</u>	
	<u>30 day</u>	<u>Daily</u>
Oil and grease	15 mg/l	20 mg/l

The NPDES permit contains other limits and/or restrictions, which include but are not limited to, that:

GENERAL EFFLUENT LIMITATIONS

The effluent shall, at all times, be free of substances: . . . Of an oily, greasy, or surface-active nature, and of other floating debris, in amounts that will form noticeable accumulations of scum, foam or sheen. (NPDES Permit, page 8). [This requirement will hereinafter be referred to as the "Sheen Requirement".]

6. The Plaintiff contends that the current OWS is undersized to accomodate current storm water runoff and groundwater discharges to meet the effluent limits and Sheen Requirement contained in the NPDES permit. Plaintiff further contends that even when the OWS is operating within its design specifications for storm water runoff and groundwater discharges it is not working properly to meet its effluent limitations and Sheen Requirement in the NPDES permit. Defendants dispute these claims but in the interest of settlement and without admitting any liability, Defendants Truck Stops and Sohio shall take certain acts described below to upgrade the existing OWS. Accordingly, within ninety (90) days after entry of this Consent Order, Defendants Truck Stops and Sohio shall submit to Ohio Environmental Protection Agency, Northeast Ohio District Office, Attn: Martin Hilovsky, for its review and approval, an application for a permit to install ("PTI"), along with detail plans, for an OWS adequate to handle

the expected storm water runoff and groundwater discharges from the site to remove oil and grease to the limits contained in the NPDES permit and to comply with the Sheen Requirement in the NPDES permit. It is agreed and accepted by the parties that during the construction required hereunder, that Defendants Truck Stops and Sohio will likely be unable to comply with the NPDES permit limits but will follow the plans for control of pollution described below. The OWS should also be designed so as to be of sufficient size to handle runoff from a ten year storm and/or to comply with the requirements of the Spill Prevention Control and Countermeasures, 40 C.F.R. Pt. 112. Defendants Truck Stops and Sohio shall submit with the application for a PTI and detail plans: (1) an operation and maintenance manual for the new OWS which shall include, but not necessarily be limited to, a schedule of training for employees as to proper operation and maintenance of the new OWS, a schedule of necessary operating and maintenance tasks for the new OWS and a description of what actions are necessary to avoid secondary contamination of land and/or water during maintenance of the OWS; (2) plans for the removal of oil-saturated soil in and around the area of the OWS and to replace this soil with clean soil; (3) plans for the construction of a curbed concrete pad of sufficient width to encompass the service entry portals to the OWS and the distribution manhole which serves the OWS to prevent accidental spillage into or onto the ground; and (4) plans for the control

of pollution during construction. Should Ohio EPA request changes and/or additions to this submittal, Truck Stops and Sohio shall make the changes and/or additions and deliver the revised submittal to the Ohio EPA at the address listed above within twenty (20) days or such longer period as the parties may agree in writing, after being notified in writing of these changes and/or additions. Provided, however, that nothing in this Consent Order shall be construed to limit the right of the Defendants Truck Stops and Sohio to appeal the issuance of the PTI pursuant to O.R.C. Chapter 3745. By May 31, 1987, or within ninety (90) days after issuance of the PTI by the Director of Ohio EPA, whichever is later, Defendants Truck Stops and Sohio shall construct, and maintain in good operation, the OWS and its appurtenances in accordance with the approved PTI application, detail plans and plans described above and the approved operation and maintenance manual.

Within sixty (60) days after completion of construction of the OWS, Defendants Truck Stops and Sohio shall submit a report to Ohio EPA, at the address provided for in paragraph 6, demonstrating that the OWS is complying with its NPDES Permit including but not limited to the oil and grease limits and Sheen Requirement contained in the NPDES permit. If Defendants Truck Stops and Sohio cannot so demonstrate, they shall submit a plan of remedial action to Ohio EPA for its comment and approval, and then upon its approval by the Ohio EPA, execute the approved plan.

B. Ground Water Recovery System

7. To prevent the further contamination of the ground and surface waters of the State with oil and grease, or other petroleum or diesel products used in the operation of the gasoline and diesel fuel service station at the site, Defendants have constructed, and Defendants Truck Stops and Sohio shall operate, the Ohio EPA approved ground water recovery system to remove oil, grease, petroleum, diesel fuel, and their constituents, from the ground water at the site. A description of this system is contained in Exhibit B. Defendants Truck Stops and Sohio shall continue to operate this system until such time as they can prove to the satisfaction of the Ohio Environmental Protection Agency that no recoverable product is in the area of the diesel fuel/gasoline storage tanks.

VI. STIPULATED PENALTIES

8. For a period of two years after the Court approves this Consent Order, or until Defendants are in complete compliance with the terms of this Consent Order, whichever occurs later, Defendants Truck Stops and Sohio agree to and are hereby enjoined to pay the following stipulated civil penalties for the following violations:

- (a) \$500.00 per day for each day Defendants fail to meet the milestone deadlines established in paragraphs 6 above and/or 9, below.

(b) \$500 per day for each day Defendants violate the terms of the injunction contained in paragraph 7, above.

The Court may not suspend these stipulated penalties in part or in whole. Defendants waive any rights they may have to contest the imposition of these stipulated penalties for violation of the Consent Order, except the defense that Defendants did in fact comply with said Order. The terms of this Consent Order in no way affects, alters or diminishes the right of the State of Ohio to pursue further enforcement action and/or penalties for violations of this Order or for future violations.

#### VII. PERMANENT INJUNCTION

9. Defendants Truck Stops and Sohio are enjoined to comply with the NPDES permit applicable to the Site. This permanent injunction shall be in force for a period of two years from the date of the Court's approval of this Consent Order or until Defendants Truck Stops and Sohio are in compliance with this Consent Order, whichever occurs later.

#### VIII. POTENTIAL DEFENSES

10. In any action to enforce any of the provisions of the Consent Order, Defendants may raise at that time the question of whether they are entitled to a defense that their conduct was caused by reasons beyond its control such as, by way of



example and not limitation, act of God, unusually severe weather conditions, strikes, acts of war or civil disturbances, or orders of any regulatory agency. While Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by the parties that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time that an enforcement action, if any, is commenced. Acceptance of this Consent Order without a force majeure clause does not constitute a waiver by Defendants of any rights of defenses they may have under applicable law.

IX. MISCELLANEOUS

11. For a period of two years from the date of the Court's approval of this Consent Order, or until such time as the Defendants are in compliance with this Consent Order, whichever occurs later, the Court shall retain jurisdiction of this suit for the purpose of making any order or decree which it may deem at any time to be necessary to carry out this Consent Order.

12. Defendants shall pay court costs.

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JUDGE, Mahoning County Court  
of Common Pleas


Approved:

STATE OF OHIO, ex rel.  
ANTHONY J. CELEBREZZE, JR.  
ATTORNEY GENERAL OF OHIO


By: 

PAUL D. HANCOCK  
DAVID I. SCHIFF  
Assistant Attorneys General  
Environmental Enforcement  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43266-0410  
(614) 466-2766

RYDER TRUCKSTOPS, INC.

By:   
Name F.A. Huston  
Title President  
(Ryder Truckstops, Inc.)

*JP*

By:   
MARTIN S. SELTZER  
PORTER, WRIGHT, MORRIS & ARTHUR  
The Huntington Center  
41 South High Street  
Columbus, Ohio 43215

Counsel for Defendant  
Ryder Truckstops, Inc.

TRUCK STOPS OF AMERICA, INC.  
SOHIO OIL COMPANY

By: Kent S. Hedman  
Name [Signature]  
Title Vice President  
(Truck Stops of America, Inc.)

By: Hugh D. Hanna  
Name [Signature]  
Title Sr. Vice President  
(SOHIO Oil Company)

By: [Signature]  
DAVID BELL  
Law Department  
200 Public Square  
Cleveland, Ohio 44114-2375

Counsel for Defendants  
Truck Stops of America, Inc.  
and SOHIO Oil Company

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OEPA Permit No. 3IN00074\*AD

Application No. OH0084131

Effective Date: February 19, 1985

Expiration Date: February 16, 1990

OHIO ENVIRONMENTAL PROTECTION AGENCY  
AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et. seq. hereinafter referred to as "the Act"), and the Ohio Water Pollution Control Act (Ohio Revised Code Section 6111),

Truckstops of America, Inc.

is authorized by the Ohio Environmental Protection Agency, hereafter referred to as "Ohio EPA", to discharge from the wastewater treatment works located

at 11028 Market Street, North Lima, Ohio

and discharging to an unnamed tributary to Mill Creek

in accordance with the conditions specified in Parts I, II and III of this permit.

This permit is conditioned upon payment of applicable fees as required by Section 3745.11 of the Ohio Revised Code.

This permit and the authorization to discharge shall expire at midnight on the expiration date shown above. In order to receive authorization to discharge beyond the above date of expiration, the permittee shall submit such information and forms as are required by the Ohio EPA no later than 180 days prior to the above date of expiration.



Steven J. Grossman  
Acting Director

Ohio Environmental Protection Agency  
Filed To Journal

2/19/85

Form EPA 4428

RECEIVED

FEB 28 1985

OHIO EPA-N.E.D.O.

PART I, A - FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning on the effective date of this permit and lasting until the expiration date, the permittee is authorized to discharge in accordance with the following limitations and monitoring requirements from the following outfall: 3IN00074001. SEE PART II, OTHER REQUIREMENTS, for location of effluent sampling.

<u>EFFLUENT CHARACTERISTIC</u>		<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
REPORTING Code	UNITS PARAMETER	Concentration		Loading		Meas. Freq.	Sample Type
		Other Units (Specify)	Daily	kg/day	Daily		
50050 MGD	Flow	-	-	-	-	1/Week	24 Hour Total*
00550 mg/l	Oil & Grease	15	20	-	-	1/Week	Grab

\*Estimated flow is acceptable if there is no flow meter.

2. The pH (Reporting Code 00400) shall not be less than 6.5 S.U. nor greater than 9.0 S.U. and shall be monitored 1/week by grab sample.
3. Samples taken in compliance with monitoring requirements specified above shall be taken at Sampling Stations described in Part II, OTHER REQUIREMENTS.
4. See PART II, OTHER REQUIREMENTS.

**PART I, A - FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1. During the period beginning on the effective date of this permit and lasting until the expiration date, the permittee is authorized to discharge in accordance with the following limitations and monitoring requirements from the following outfall: 3IN00074601. SEE PART II, OTHER REQUIREMENTS, for location of effluent sampling.

<u>EFFLUENT CHARACTERISTIC</u>			<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
REPORTING Code	UNITS	PARAMETER	Concentration		Loading		Meas. Freq.	Sample Type
			Other Units	(Specify) Daily	kg/day	30 day Daily		
00056	GPD	Flow	-	-	-	-	Daily*	24 Hour Total**
00310	mg/l	BOD <sub>5</sub>	10	15	-	-	2/Month	Grab
00530	mg/l	TSS	12	18	-	-	2/Month	Grab
00610	mg/l	Ammonia-N	2.0	3.0	-	-	2/Month	Grab
31616	Count /100ml	Fecal Coliform (Summer Only)	1000	2000	-	-	2/Month	Grab
50060	mg/l	Total Residual Chlorine (Summer Only)	2.0	3.0	-	-	Daily*	Grab
00083	Units	Color, Severity	-	-	-	-	Daily*	Observation
01330	Units	Odor, Severity	-	-	-	-	Daily*	Observation
01350	Units	Turbidity, Severity	-	-	-	-	Daily*	Observation

\*Except days when the facility is not normally staffed. Report "AN" on the monthly report forms for those days.

\*\*Estimated flow is acceptable if there is no flow meter.

2. The pH (Reporting Code 00400) shall not be less than 6.5 S.U. nor greater than 9.0 S.U. and shall be monitored 2/month by grab sample.
3. Samples taken in compliance with monitoring requirements specified above shall be taken at Sampling Stations described in Part II, OTHER REQUIREMENTS.
4. See PART II, OTHER REQUIREMENTS.

PART I, B. - ADDITIONAL MONITORING REQUIREMENTS

1. Downstream. During the period beginning on the effective date of this permit and lasting until the expiration date, the permittee shall monitor the receiving stream, downstream of the point of discharge at Station Number 3IN00074901 and report to the Ohio EPA in accordance with the following table. SEE PART II, OTHER REQUIREMENTS for location of sampling.

<u>EFFLUENT CHARACTERISTIC</u>		<u>MONITORING REQUIREMENTS</u>	
<u>REPORTING</u>		<u>Measurement</u>	
<u>Code</u>	<u>UNITS PARAMETER</u>	<u>Frequency</u>	<u>Sample Type</u>
00550	mg/l Oil & Grease	1/Week*	Grab

\*See Part II, C. for additional requirements regarding the method of sample collection.



PART I, C. - SCHEDULE OF COMPLIANCE

1. The permittee shall achieve compliance with specified effluent limitations in accordance with the following schedule:

A. Not Applicable.

**PART II, OTHER REQUIREMENTS**

- A. Description of the location of the required sampling stations are as follows:

<u>Sampling Station</u>	<u>Description of Location</u>
3IN00074001	At discharge of culvert under the oil and gas haul road
3IN00074601	At a point representative of discharge from sewage treatment plant prior to entry to unnamed tributary to Mill Creek
3IN00074901	At discharge from the first siphon dam downstream of Outfall 3IN00074001

- B. For Station 3IN00074601 severity units are required to be reported for color, odor, and turbidity. Report a number between 0 and 4 from the table below for each parameter. Interpolate between the descriptive phrases.

<u>REPORTED VALUE *</u>	<u>SEVERITY DESCRIPTION</u>	<u>TURBIDITY</u>	<u>ODOR</u>	<u>COLOR</u>
0	None	Clear	None	Colorless
1	Mild			
2	Moderate	Light Solids	Musty	Grey
3	Serious			
4	Extreme	Heavy Solids	Septic	Black

- C. Oil and grease shall be monitored once per week at Monitoring Station Number 3IN00074901. This sample shall be collected between 30 minutes and 60 minutes following the start of any one rainfall event occurring during the weekly sampling period. In the event of multiple rainfall events during one sampling period, the permittee shall sample only the first of such rainfall events. If a measurable rainfall event does not occur, the permittee is required to sample on the last day of the weekly sampling period.

PART III - GENERAL CONDITIONS

1. DEFINITIONS

- A. 1. The "daily load limitations" is the total discharge by weight during any calendar day. If only one sample is taken during a day, the weight of pollutant discharge calculated from it is the daily load.
2. The "daily concentration limitation" means the arithmetic average of all the determinations of concentration made during the day. If only one sample is taken during the day its concentration is the daily concentration. Coliform bacteria limitations compliance shall be determined using the geometric mean.
3. The "7-day load limitation" is the total discharge by weight during any 7-day period divided by the number of days in that 7-day period that the facility was in operation. If only one sample is taken in a 7-day period the weight of pollutant discharge calculated from it is the 7-day load. If more than one sample is taken during the 7-day period the 7-day load is calculated by determining the daily load for each day sampled, totaling the daily loads for the 7-day period and dividing by the number of days sampled.
4. The "7-day concentration limitation" means the arithmetic average of all the determinations of daily concentration limitation made during the 7-day period. If only one sample is taken during the 7-day period, its concentration is the 7-day concentration limitation for that 7-day period. Coliform bacteria limitations compliance shall be determined using the geometric mean.
5. The "30-day load limitation" is the total discharge by weight during any 30-day period divided by the number of days in the 30-day period that the facility was in operation. If only one sample is taken in a 30-day period the weight of pollutant discharge calculated from it is the 30-day load. If more than one sample is taken during one 30-day period the 30-day load is calculated by determining the daily load for each day sampled, totaling the daily loads for the 30-day period and dividing by the number of days sampled.
6. The "30-day concentration limitation" means the arithmetic average (weighted by flow) of all the determinations of daily concentration made during the 30-day period. If only one sample is taken during the 30-day period, its concentration is the 30-day concentration for that 30-day period. Coliform bacteria limitations compliance shall be determined using the geometric mean.
- B. "85 percent removal limitations" means the arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period.
- C. 1. Absolute Limitations. Compliance with limitations having descriptions of "shall not be less than", "nor greater than", "shall not exceed", "minimum", or "maximum", shall be determined from any single value for effluent samples and/or measurements collected.
2. "Net concentration" shall mean the difference between the concentration of a given substance in a sample taken of the discharge and the concentration of the same substances in a sample taken at the intake which supplies water to the given process. For the purpose of this definition samples that are taken to determine the net concentration shall always be 24-hour composite samples made up of at least six increments taken at regular intervals throughout the plant day.
3. "Net load" shall mean the difference between the load of a given substance as calculated from a sample taken of the discharge and the load of the same substance in a sample taken at the intake which supplies water to given process. For purposes of this definition samples that are taken to determine the net loading shall always be 24-hour composite samples made up of at least six increments taken at regular intervals throughout the plant day.
- D. 1. When Quarterly sampling frequency is specified, the sampling shall be done in the months of March, June, August and December.
2. When a Yearly sampling frequency is specified, the sampling shall be done in the month of September.
3. When semi-annual sampling frequency is specified, the sampling shall be done during the months of June and December.
4. Winter shall be considered to be the period from November 1 thru April 30.

5. Summer shall be considered to be the period from May 1 thru October 31.

E. 1. "MGD" means million gallons per day

2. "mg/l" means milligrams per liter

3. "ug/l" means micrograms per liter

F. "Reporting Code" is a five digit number used by the Ohio EPA in processing reported data. The reporting code does not imply the type of analysis used nor the sampling techniques employed.

G. "Bypass" means the intentional diversion of wastes from any portion of a treatment facility.

H. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

I. "Upsets" means an exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

## 2. GENERAL EFFLUENT LIMITATIONS

The effluent shall, at all times, be free of substances:

A. In amounts that will settle to form putrescent, or otherwise objectionable, sludge deposits; or that will adversely affect aquatic life or water fowl;

B. Of an oily, greasy, or surface-active nature, and of other floating debris, in amounts that will form noticeable accumulations of scum, foam or sheen;

C. In amounts that will alter the natural color or odor of the receiving water to such degree as to create a nuisance;

D. In amounts that either singly or in combination with other substances that are toxic to human, animal, or aquatic life;

E. In amounts that are conducive to the growth of aquatic weeds or algae to the extent that such growths become inimical to more desirable forms of aquatic life, or create conditions that are unsightly, or constitute a nuisance in any other fashion;

F. In amounts that will impair designated instream or downstream water uses.

## 3. FACILITY OPERATION AND QUALITY CONTROL

All wastewater treatment works shall be operated in a manner consistent with the following:

A. At all times, the permittee shall maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee necessary to achieve compliance with the terms and conditions of this permit. The determination of what constitutes proper operation and maintenance will consider, but not be limited to, effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with conditions of the permit.

B. The permittee shall effectively monitor the operation and efficiency of treatment and control facilities and the quantity and quality of the treated discharge.

C. Maintenance of wastewater treatment works that results in degradation of effluent quality shall be scheduled during non-critical water quality periods and shall be carried out in a manner approved by the Ohio EPA as specified in the Paragraph in this PART III entitled, "UNAUTHORIZED DISCHARGES".

## 4. REPORTING

A. Monitoring data required by this permit shall be reported on the Ohio EPA report form (4500) on

a monthly basis. Individual reports for each sampling station for each month are to be received no later than the 15th day of the next month. The original plus first copy of the report form must be signed and mailed to:

Ohio Environmental Protection Agency  
Records Control Group  
Post Office Box 1049  
Columbus, Ohio 43216

- B. If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified below, the results of such monitoring shall be included in the calculation and reporting of the values required in the reports specified above.
- C. Analyses of pollutants not required by this permit, except as noted in the preceding paragraph, shall not be reported on Ohio EPA report form (4500) but records shall be retained as specified in the paragraph entitled "RECORDS RETENTION".

5. SAMPLING AND ANALYTICAL METHODS

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored flow. Test procedures for the analysis of pollutants shall conform to regulation 40 CFR 136, "Test Procedures For The Analysis of Pollutants". The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals to insure accuracy of measurements.

6. RECORDING OF RESULTS

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- A. The exact place, date, and time of sampling;
- B. The person(s) who performed the sampling or measurements;
- C. The date and time the analyses were performed on those samples;
- D. The person(s) who performed the analyses;
- E. The analytical techniques or methods used; and
- F. The results of all analyses and measurements

7. RECORDS RETENTION

The permittee shall retain all of the following records for the wastewater treatment works for a minimum of three years, including:

- A. All sampling and analytical records (including internal sampling data not reported);
- B. All original recordings for any continuous monitoring instrumentation;
- C. All instrumentation, calibration and maintenance records; and
- D. All plant operation and maintenance records.
- E. All reports required by this permit.
- F. Records of all data used to complete the application for this permit for a period of at least three years from the date of the sample, measurement, report or application.

These periods will be extended during the course of any unresolved litigation, or when so requested by the Regional Administrator or the Ohio EPA. The three year period for retention of records shall start from the date of sample, measurement, report or application.

8. AVAILABILITY OF REPORTS

Except for data determined by the Ohio EPA to be entitled confidential status, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the appropriate District Offices of the Ohio EPA. Both Section 308, Public Law 95-217 and Section 6111.05 Ohio Revised Code state that effluent data and receiving water quality data shall not be

considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in the Ohio Revised Code Section 6111.99.

**9. DUTY TO PROVIDE INFORMATION**

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

**10. RIGHT OF ENTRY**

The permittee shall allow authorized representatives of the Ohio EPA and U.S. EPA upon the presentation of credentials;

- A. To enter upon the permittee's premises where an effluent source is located or in which any records are required to be kept under the terms and conditions of this permit; and
- B. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit; to inspect any monitoring equipment or monitoring method required in this permit; and to sample for any pollutants.
- C. To enter upon the permittee's premises to inspect at reasonable times any collection, treatment, pollution management, or discharge facilities required under the permit.

**11. UNAUTHORIZED DISCHARGES**

A. Unless specifically authorized in Part I and/or Part II of this permit, deliberate by-passing or diverting of wastewater from the treatment works is prohibited except when necessary:

- 1. To prevent loss of life, personal injury or severe property damage;
- 2. To prevent damage to treatment works or processes; or
- 3. To allow essential maintenance to be performed according to a schedule approved in writing by the Ohio EPA District Office.

B. While typical unauthorized discharges are those resulting from pipeline breaks, equipment malfunctions or failures, operator errors, accidents, process interruptions, or power failures, all unauthorized discharges shall be reported according to the following procedure:

- 1. Report within one hour of discovery to Ohio EPA by calling (toll free) 1-800-282-9378.
- 2. For these telephone reports the following information must be included:
  - a. the times at which the discharge occurred, and was discovered;
  - b. the approximate amount and the characteristics of the discharge;
  - c. the stream(s) affected by the discharge;
  - d. the circumstances which created the discharge;
  - e. the names and telephone numbers of the persons who have knowledge of these circumstances;
  - f. what remedial steps are being taken;
  - g. the names and telephone numbers of the persons responsible for such remedial steps.
- 3. These reports shall be confirmed in writing within five days of the discharge and submitted to the appropriate Ohio EPA District Office. This report should include the information required under "NONCOMPLIANCE NOTIFICATION".

**12. NONCOMPLIANCE NOTIFICATION**

A. Effluent Limitations:

If the permittee is unable to meet any effluent limitations specified in this permit, the permittee shall submit a written report to the appropriate Ohio EPA District Office within five days of becoming aware of the conditions. The report shall include the following:

- 1. The limitation(s) which has been violated;
- 2. The extent of the violation(s);
- 3. The cause of the violation(s);
- 4. The period of the violation(s) including exact dates and times;
- 5. If uncorrected, the anticipated time the violation(s) is expected to continue; and
- 6. Steps being taken to reduce, eliminate and/or prevent recurrence of the violation(s).

### **8. Compliance Schedule Event**

If the permittee is unable to meet any date for achieving an event, as specified in the Schedule of Compliance, the permittee shall submit a written report to the appropriate District Office of the Ohio EPA within five days of becoming aware of such situation. The report shall include the following:

1. The compliance event which has been or will be violated;
2. The cause of the violation;
3. The remedial action being taken
4. The probable date by which compliance will occur; and
5. The probability of complying with subsequent and final events as scheduled.

### **13. POWER FAILURES**

The failure of the primary source of power to a wastewater control facility will not be considered a justifiable basis for noncompliance with effluent limitations. The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastewater during electrical power failures either by means of alternate power sources, standby generators, retention of inadequately treated wastewater or reduced production. Should the treatment works not include the above capabilities at time of issuance of this permit, the provision for such necessary facilities is an integral part of the schedule of compliance. If a schedule of compliance is not included in this permit, a letter with a detailed schedule for providing necessary facilities shall be submitted within 180 days of the effective date of this permit. Such letter will be submitted to the appropriate Ohio EPA District Office.

### **14. ADVERSE IMPACT**

In the event of either an unauthorized discharge or a violation of effluent limitations, the permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment. This may include accelerated or additional monitoring to determine the extent of the impact of unauthorized discharge or the violation of limitations. If such additional monitoring is performed, the data collected shall be included in the written report submitted to the appropriate Ohio EPA District Office.

### **15. AUTHORIZED DISCHARGES**

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than, or at a level in excess of, that authorized by this permit shall constitute a violation of the terms and conditions of this permit. Such a violation may result in the imposition of civil and/or criminal penalties as provided for in Section 309 of the Act, and Ohio Revised Code Sections 6111.09 and 6111.99.

### **16. DISCHARGE CHANGES**

The following changes must be reported to the appropriate Ohio EPA District Office as soon as practicable.

A. For all treatment works, any significant change in character of the discharge which the permittee knows or has reason to believe has occurred or will occur which would constitute cause for modification or revocation and reissuance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. Notification of permit changes or anticipated noncompliance does not stay any permit condition.

B. For publicly owned treatment works:

1. Any proposed plant modification, addition and/or expansion that will change the capacity or efficiency of the plant;
2. The addition of any new significant industrial discharge; and
3. Changes in the quantity or quality of the wastes from existing tributary industrial discharges which will result in significant new or increased discharges of pollutants.

C. For non-publicly owned treatment works, any proposed facility expansions, production increases, or process modifications, which will result in new, different, or increased discharges of pollutants.

Following this notice, modifications to the permit may be made to reflect any necessary changes in permit conditions, including any necessary effluent limitations for any pollutants not identified and limited herein. A determination will also be made as to whether a National Environmental

Policy Act (NEPA) review will be required. Sections 6111.44 and 6111.45, Ohio Revised Code, require that plans for treatment works or improvements to such works be approved by the Director of the Ohio EPA prior to initiation of construction.

D. In accordance with 40 CFR 122.42(a), all existing manufacturing, commercial mining, and silvicultural dischargers must notify the Director as soon as they know or have reason to believe:

1. That any activity has occurred or will occur which would result in the discharge of any toxic pollutant not limited in the permit if that discharge exceeds the highest of the "notification levels" specified in Parts 122.42(a)(1)(i) through 122.42(a)(1)(iv).
2. That they have begun or expected to begin to use or manufacture as an intermediate or final product or by-product any toxic pollutant which was not reported in the permit application under §122.21(g)(9).

#### 17. TOXIC POLLUTANTS

The permittee shall comply with effluent standards or prohibitions established under Section 307 (a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement. Following establishment of such standards or prohibitions, the Director shall modify this permit and so notify the permittee.

#### 18. PERMIT MODIFICATION OR REVOCATION

A. After notice and opportunity for a hearing, this permit may be modified or revoked, by the Ohio EPA, in whole or in part during its term for cause including, but not limited to, the following:

1. violation of any terms or conditions of this permit;
2. obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
3. a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

B. Pursuant to rule 3745-33-06, Ohio Administrative Code the permittee may at any time apply to the Ohio EPA for modification of any part of this permit. The filing of a request by the permittee for a permit modification or revocation does not stay any permit condition. The application for modification should be received by the appropriate Ohio EPA District Office at least ninety days before the date on which it is desired that the modification become effective. The application shall be made only on forms approved by the Ohio EPA.

#### 19. TRANSFER OF OWNERSHIP OR CONTROL

This permit cannot be transferred or assigned nor shall a new owner or successor be authorized to discharge from this facility, until the following requirements are met:

- A. The permittee shall notify the succeeding owner or successor of the existence of this permit by a letter, a copy of which shall be forwarded to the appropriate Ohio EPA District Office. The copy of that letter will serve as the permittee's notice to the Director of the proposed transfer. The copy of that letter shall be received by the appropriate Ohio EPA District Office sixty days prior to the proposed date of transfer.
- B. A written agreement containing a specific date for transfer of permit responsibility and coverage between the current and new permittees (including acknowledgement that the existing permittee is liable for violations up to that date, and that the new permittee is liable for violations from that date on) shall be submitted to the appropriate Ohio EPA District Office within sixty days after receipt by the District Office of the copy of the letter from the permittee to the succeeding owner;
- C. The Director does not exercise his right within thirty days after receipt of the written agreement to notify the current permittee and the new permittee of his or her intent to modify or revoke the permit and to require that a new application be filed; and
- D. The new owner or successor receives written confirmation and approval of the transfer from the Director of the Ohio EPA.

#### 20. OIL AND HAZARDOUS SUBSTANCE LIABILITY

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.



**21. SOLIDS DISPOSAL**

Collected screenings, slurries, sludges, and other solids shall be disposed of in such a manner as to prevent entry of those wastes into waters of the State.

**22. CONSTRUCTION AFFECTING NAVIGABLE WATERS**

This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any navigable waters.

**23. CIVIL AND CRIMINAL LIABILITY**

Except as exempted in the permit conditions on UNAUTHORIZED DISCHARGES, nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

**24. STATE LAWS AND REGULATIONS**

Nothing in this permit shall be construed to preclude the institution of any legal action nor relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

**25. PROPERTY RIGHTS**

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, state, or local laws or regulations.

**26. UPSETS**

The provisions of 40 CFR Section 122.41(n), dated April 1, 1983 relating to "Upsets," are specifically incorporated herein by reference in their entirety for definition see Part 1 item I.

**27. SEVERABILITY**

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

**28. SIGNATORY REQUIREMENTS**

All applications submitted to the Director shall be signed and certified in accordance with the requirements of OAC 3745-33-03.

All reports submitted to the Director shall be signed and certified in accordance with the requirements of 40 CFR Section 122.22 (b)(c), dated April 1, 1983.

**29. OTHER INFORMATION**

- A. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.
- B. ORC 6111.99 provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$25,000 per violation.
- C. ORC 6111.99, states that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$25,000 per violation.
- D. ORC 6111.99 provides that any person who violates Sections 6111.04, 6111.042, 6111.05, or division (A) of Section 6111.07 of the Revised Code shall be fined not more than twenty-five thousand dollars or imprisoned not more than one year, or both.

**30. DUTY TO HALT OR REDUCE ACTIVITY**

40 CFR 122.41(c), dated September 1, 1983, states that it shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with conditions of this permit.

Ohio Environmental Protection Agency  
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