

- a. Defendant Heartland Refinery Group shall install and utilize a nitrogen blanketing system and electronic pressure gauges/transducers on the wastewater and light ends fuel oil tanks. The nitrogen blanketing system as set forth herein shall be operated during the refinery's daily operations;
- b. Defendant Heartland Refinery Group shall expeditiously install and utilize a nitrogen blanketing system on the asphalt tank or an alarm on the asphalt tank conservation vent to ensure that the vacuum pallet is properly seated. In the interim between resuming operations and installation of the nitrogen blanketing system or alarm, Defendant Heartland Refinery Group shall inspect the asphalt tank conservation vent three times per shift. In addition, Defendant Heartland Refinery Group shall perform an inspection and instrumental monitoring of the asphalt tank conservation vent vacuum pallet within thirty minutes of the completion of loading out material from the asphalt tank. This additional inspection and instrumental monitoring may be counted as one of the three required monitoring events. If the valve is found to not be properly seated, Defendant Heartland Refinery Group shall immediately repair or replace the affected parts and notify Ohio EPA.
- c. A responsible officer of Defendant Heartland Refinery Group shall certify in writing to Ohio EPA that the installation of the nitrogen blanketing system is complete and operable as designed, at which time Heartland Refinery Group may request in writing that the State allow the refinery to restart operations. The decision to determine whether the refinery may restart upon completing the items in paragraph 3(a) rests exclusively with the State and will be binding on the parties;
- d. Defendant Heartland Refinery Group shall install and utilize a closed-loop vapor recovery system on the loading rack. A responsible officer of Defendant Heartland

Refinery Group shall certify in writing to Ohio EPA that the installation is complete and operable as designed prior to initiating start-up of the facility, unless Defendant Heartland Refinery Group starts up in accordance with the early start-up provisions in paragraph 3(c). The closed-loop vapor recovery system as set forth herein shall be operated during the refinery's daily operations;

- e. Upon Defendant Heartland Refinery Group's certification of the installation of the nitrogen blanketing system and closed-loop vapor recovery system in accordance with paragraphs 3(a) through 3(d), Defendant Heartland Refinery Group may restart operations after providing notice 24 hours prior to restarting operations to Ohio EPA. The State reserves the right to petition the Court in opposition to the refinery's re-start. A tentative hearing date is reserved for December 16, 2011 at 9:00 a.m. should the State petition the Court;
- f. Failure to complete the Orders in 3(a) through 3(d), subject to the early start up provisions of paragraph 3(c), shall preclude Heartland from resuming production operations absent a written order from the Court;

4. Nothing in this Order shall permit Defendant Heartland Refinery Group to operate out of compliance with Permit-to-Install and Operate No. P0106464, R.C. Chapter 3704, and the rules adopted thereunder, including any alleged nuisance per Ohio Adm. Code 3745 – 15 – 07.

5. Consideration of fines, damages, penalties, costs and/or fees associated with the State's *First Amended Charges in Contempt*, if any, will be consolidated with trial in this matter presently scheduled to begin on March 5, 2012;

6. Upon entry of this Order, the hearing scheduled to begin on November 16, 2011 is hereby cancelled.

The Court shall retain jurisdiction of this action for the purpose of enforcing this Order.

IT IS SO ORDERED.

11/16/11
DATE

Harland H. Hale
JUDGE HARLAND H. HALE