west virginia department of environmental protection

Division of Water and Waste Management
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Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
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ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11
AND THE
GROUNDWATER PROTECTION ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 12

TO: Etowah River Terminal, LLC.
Attn: John Hutchinson, Terminal Manager
P.O. Box 713
Charleston, WV 25323

DATE: January 10, 2014

ORDER NO.: 8027

INTRODUCTION

The following findings are made and Order issued to Etowah River Terminal, LLC pursuant to the authority vested in the Director of the Division of Water and Waste Management under Chapter 22, Article 11, Section 1 et seq. and Chapter 22, Article 12, Section 1 et seq. of the Code of West Virginia.

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

1. Etowah River Terminal, LLC operates a bulk storage distribution center located near Charleston, Kanawha County, West Virginia. Etowah River Terminal, LLC was reissued permit coverage under WV/NPDES General Water Pollution Control Permit No. WV0111457, Registration No. WVG610920 on November 17, 2009.

2. On January 9, 2014, West Virginia Department of Environmental Protection (WVDEP) personnel received a complaint concerning an odor at / near Ettowah River Terminal, LLC. After investigation, the following was observed and documented:

   a. Free product was observed in secondary containment units surrounding above ground storage tanks containing a chemical described as 4-Methylcyclohexne Methanol. It

was also observed that this material had escaped the secondary containment unit and had entered the Elk River. Failure to maintain adequate secondary containment for above ground storage tanks is a violation of 47 CSR 58, Section 4.8.a.

b. It was determined that the intake for the local public water supply is located approximately 1.5 miles downstream of the discharge, and has been impacted.
c. The release of this spilled material has caused conditions not allowable in the Elk River by creating odors in the vicinity of state waters, by requiring an unreasonable degree of treatment for the production of potable water, and by creating a sheen on the surface of the water, a violation of 47 CSR 2, Section 3.
d. Ettowah River Terminal, LLC has failed to take any and all measures necessary to contain the spill and render it harmless, a violation of 47 CSR 11, Section 2.5.

3. At 12:05 p.m. on January 9, 2014, Bob Reynolds with Freedom Industries reported the spill to the Emergency Response Spill Hotline. Mr. Reynolds indicated that the facility discovered a hole in the tank; as well as, the secondary containment unit was containing the spilled material.

ORDER FOR COMPLIANCE

And now, this day of January 10, 2014, Etowah River Terminal is hereby ORDERED by the Director as follows:

1. Ettowah River Terminal, LLC. shall immediately take measures to initiate compliance with all terms and conditions of its permit and pertinent laws and rules.

2. Ettowah River Terminal, LLC. shall immediately **Cease and Desist** any further receipt of material to be stored within the area of the faulty secondary containment.

3. Ettowah River Terminal, LLC shall immediately take all necessary measures to contain, recover and remediate the material that has escaped the breached above ground storage tank and the secondary containment structure; which shall at a minimum include the installation of interceptor trenches adjacent to the Elk River, and the installation and maintenance of booms and absorbents in affected waterways.

4. Ettowah River Terminal, LLC. shall immediately conduct an integrity test of all above ground storage tanks and secondary containment structures for the entire facility.

5. Prior to resuming receipt of material to be stored, Ettowah River Terminal, LLC. must provide a report for approval which documents that the integrity of all storage and containment structures are sound.

OTHER PROVISIONS

1. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Ettowah River Terminal, LLC of the obligation to comply with any

applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Ettowah River Terminal, LLC to additional enforcement action in accordance with the applicable law.

2. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.

3. This Order is binding on Ettowah River Terminal, LLC, its successors and assigns.

4. This Order shall terminate upon Ettowah River Terminal, LLC's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.

RIGHT OF APPEAL

Notice is hereby given of your right to appeal the terms and conditions of this Order which you are aggrieved to the Environmental Quality Board by filing a NOTICE of APPEAL on the form prescribed by such Board, in accordance with the provisions of Chapter 22, Article 11, Section 21 and/or Chapter 22, Article 12, Section 11 of the Code of West Virginia within thirty (30) days after receipt of this Order.

This Order shall become effective upon receipt.

Scott G. Mandirola, Director
Division of Water and Waste Management

revised March 2013