



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

September 14, 2020

VIA EMAIL TRANSMISSION

Michael Dillon, Esq.
Manko, Gold, Katcher & Fox, LLP
401 City Avenue, Suite 901
Bala Cynwyd, PA 19004

Re: Administrative Order on Consent
In the Matter of ISE America, Inc.
Docket No. CWA-03-2020-0117DN

Dear Mr. Brown:

Enclosed please find a time-stamped Administrative Order on Consent, one copy of which was mailed today via U.S. Postal Service Priority Mail to your client, ISE America, Inc.

Please do not hesitate to contact Louis F. Ramalho, Sr. Assistant Regional Counsel at (215) 814-2681 or via email to ramalho.louis@epa.gov if you have any questions regarding this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Louis F. Ramalho".

Louis F. Ramalho
Sr. Assistant Regional Counsel

Enclosure

cc: Regional Hearing Clerk, Region III



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III**

Philadelphia, Pennsylvania 19103-2029

In the Matter of:

**ISE AMERICA, INC.
P.O. Box 267
Galena, MD 21635-0267**

Respondent

Docket No. CWA-03-2020-0117DN

**ADMINISTRATIVE
ORDER ON CONSENT**

I. PRELIMINARY STATEMENT

1. The United States Environmental Protection Agency ("EPA") has made the following findings of fact and issues this Administrative Order on Consent ("AOC") pursuant to the authority vested in the Administrator of EPA under Section 309(a) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(a). This authority has been delegated by the Administrator to the Regional Administrator of EPA Region III, and further delegated to the Director, Enforcement & Compliance Division, Region III.
2. Section 309(a) of the Act, 33 U.S.C. § 1319(a), provides, *inter alia*, that whenever on the basis of any information available to him the Administrator finds that any person is in violation of any permit condition or limitation implementing certain sections of the Act, in a permit issued under Section 402 of the Act, 33 U.S.C. § 1342, he shall issue an order requiring such person to comply with such section or requirement.
3. ISE America, Inc. ("Respondent"), has agreed to the issuance of this AOC.

II. STATUTORY AND REGULATORY BACKGROUND

4. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant (other than dredged or fill material) from a point source into waters of the United States

except in compliance with a permit issued pursuant to the National Pollutant Discharge Elimination System (“NPDES”) program under Section 402 of the Act, 33 U.S.C. § 1342.

5. Section 402 of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA, or a state upon approval by EPA, may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit.
6. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA authorized the Maryland Department of the Environment (“MDE”) to issue NPDES permits in Maryland on September 5, 1974. On September 30, 1991, EPA authorized MDE to issue general NPDES permits.
7. Section 502(12) of the Act defines “discharge of a pollutants,” as, among other, “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12).
8. Section 502(6) of the Acts defines “pollutant,” as “dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharges into water.” 33 U.S.C. § 1362(6).
9. Section 502(14) of the Act defines “point source” as “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14).
10. Section 502(5) of the Act defines “person” as “an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.” 33 U.S.C. § 1362(5).
11. “Animal feeding operation” or “AFO” means, among other things, a lot or facility where:
 - a. Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
 - b. Crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. 40 C.F.R. § 122.23(b)(1).
12. “Concentrated Animal Feeding Operation” or “CAFO” means an AFO that is defined, among others, as a Large CAFO. 40 C.F.R. § 122.23(b)(2).

13. "Large CAFO" means, among other things, an AFO that stables or confines more than:
 - a. 82,000 laying hens if an AFO uses other than a liquid manure handling system; or
 - b. 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system. C.F.R. § 122.23(b)(4).
14. "Land application area" means land under the control of an AFO owner or operator, whether it is owned, rented, leased, to which manure, litter, or process wastewater from the production area is or may be applied. 40 C.F.R. § 122.23(b)(3).
15. "Process wastewater" means water directly or indirectly used in the operations of the AFO including, among others, water which comes in direct contact with any raw materials, products or byproducts such as manure, litter, or eggs. 40 C.F.R. § 122.23(b)(7).
16. "Production area" means that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area and the waste containment storage areas. 40 C.F.R. § 122.23(b)(8).
17. Pursuant to 40 C.F.R. § 122.23(d), a CAFO must not discharge unless the discharge is authorized by an NPDES permit.
18. Pursuant to 40 C.F.R. § 122.23(e), a land application discharge is a point source discharge subject to the NPDES permit requirements, unless it is an agricultural stormwater discharge.
19. Pursuant to 40 C.F.R. § 122.23(e), a precipitation-related discharge of manure, litter and process wastewater from land areas under the control of CAFO is an agricultural stormwater discharge when the manure, litter or process wastewater have been applied in accordance to site-specific nutrient management practices that ensure properly agricultural utilization of the nutrients as provided in 40 C.F.R. § 122.42(e)(1)(vi)-(ix).
20. Pursuant to the authority of the Act, the NPDES program approval, and the laws of Maryland, Maryland issued General Discharge Permit for Animal Feeding Operations, NPDES Permit No. MDG01, Maryland Permit No. 9AF ("the 2009 Permit"). The effective date of the 2009 Permit was December 1, 2009, and the expiration date was November 30, 2014.
21. Maryland reissued General Discharge Permit for Animal Feeding Operations, NPDES Permit No. MDG01, Maryland Permit No. 14AF ("the 2014 Permit"). The effective date of the Permit was December 1, 2014, with an expiration date of November 30, 2019.

22. In 2016 Maryland modified the 2014 Permit. The modified permit, NPDES Permit No. MGD01A, Maryland Permit No. 14AFA (“the 2016 Permit”), became effective on August 1, 2016 and expired on November 30, 2019.
23. Respondent is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5) and 40 C.F.R. § 122.2.
24. Respondent owns and operates the following facilities in Maryland:
 - a. Company 2 Layers, located on or about 33265 Walnut Tree Road, Millington;
 - b. Company 2 Pullets, located on or about 10782 Big Stone Road, Millington;
 - c. Company 6 Layers, located on or about 1526 Cecilton-Warwick Road, Cecilton;
 - d. Company 15 Layers, located on or about 605 Sassafras Road, Warwick; and
 - e. Company 15 Pullets, located on or about 680 Ward Hill Road, Warwick.
25. All of Respondent’s facilities listed above are AFOs within the meaning set forth at 40 C.F.R. § 122.23(b)(1) because the facilities confine and feed or maintain animals over 45 days in a 12-month period where no crops or vegetations are sustained in the normal growing season.
26. All of Respondent’s facilities listed above are CAFOs within the meaning set forth at 40 C.F.R. § 122.23(b)(4) because:
 - a. Company 2 Layers, Company 6 Layers and Company 15 Layers confine and feed more than 82,000 laying hens and use other than a liquid manure handling system; and
 - b. Company 2 Pullets and Company 15 Pullets confine and feed more than 125,000 chickens (other than laying hens) and use other than a liquid manure handling system.
27. Potential discharges from Respondent’s CAFOs identified in Paragraph 26, above, flow into a “water of the United States” within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
28. Respondent submitted a Notice of Intent (NOI) to be covered by the 2009 Permit for the discharges from the five CAFOs listed above to MDE, signed by Respondent on June 20, 2011 and received by MDE on July 12, 2011.
29. On June 9, 2014, MDE acknowledged coverage under the 2009 Permit for all of Respondent’s five CAFOs.

30. On September 25, 2014, Respondent submitted requests to MDE to continue coverage under the 2009 Permit for discharges from its five CAFOs listed above.
31. On January 30, 2015, Respondent submitted Notices of Intent (NOI) to MDE to be covered by the 2014 Permit for the discharges from its five CAFOs listed above.
32. On October 5, 2015, MDE acknowledged coverage under the 2014 Permit for all of Respondent's five CAFOs.
33. On September 26, 2019, Respondent submitted requests to MDE to continue coverage under the 2016 Permit for discharges from its five CAFOs listed above.
34. Respondent's NOIs to be covered by the 2009 and 2014 Permit for the discharges from all five of its CAFOs stated that all litter, manure and wastewater would be transported offsite.
35. Respondent's requests to continue coverage under the 2016 Permit for discharges from Company 2 Layers, Company 6 Layers, and Company 15 Layers stated that all manure would be transported offsite and that all process wastewater would be land applied.
36. Part I.B.1 of the 2009, 2014 and 2016 Permits authorizes discharges via application of animal waste, including process wastewater, to the soil if such application is performed in accordance with an approved nutrient management plan.
37. CAFO owners or operators must submit to MDE required plans, consisting of either a Comprehensive Nutrient Management Plan (CNMP) or both a Nutrient Management Plan (NMP) and a Conservation Plan (collectively the "Plans"). Part II.S of the 2009, 2014 and 2016 Permits.
38. The 2009, 2014 and 2016 Permits requires the CAFO to implement the required Plans. Part III.A.3 of the 2014 and 2016 Permits; Part III.B.3 of the 2009 Permit.
39. Part II.Z of the 2009, 2014 and 2016 Permits states that process wastewater includes, *inter alia*, water that comes into contact with any raw materials, products or by products, including manure, litter, feed, milk, eggs or bedding.
40. The production area of a CAFO includes, *inter alia*, the manure storage area, such as storage sheds, stockpiles, etc. Part II.AA of the 2009, 2014 and 2016 Permits.
41. The 2009, 2014 and 2016 Permits prohibit discharges from the CAFO production areas unless the discharge results from a storm event greater than a 25-year 24-hour storm. Part I.B.2
42. Part IV.A.6 of the 2009, 2014 and 2016 Permits require that the permittee maintain a land

- application logbook to keep data describing all land application of process wastewater.
43. The logbook must include, *inter alia*, data for each day that land application occurs, the field where the process wastewater was applied, the application method, rate, time and date, and weather and soil conditions. Part IV.A.6(a) of the 2009, 2014 and 2016 Permits.
 44. The 2014 and 2016 Permits require that if the operations in the CAFO change from no-land to land application, the permittee must submit a new NOI and revised required plans. Part IV.F of the 2014 and 2016 Permits. The 2009 Permit requires that the permittee submit a new NOI for any changes requiring an updated required plan. Part IV.F of the 2009 Permit.
 45. A permittee for a no-land application CAFO cannot apply process wastewater to fields under its control and must export the animal waste to an operation that is not under the control of the CAFO's operator. Part IV.F.1.d.i of the 2014 and 2016 Permits.
 46. The 2009, 2014 and 2016 Permits require that permittees submit an annual report with daily data collected as well as additional information including the amount of total manure, litter and process wastewater generated the previous year, the amount of waste that was land applied, the amount of waste transported offsite by recipient, and the amount of freeboard in the impoundment on the same day of each month for those operations that with liquid impoundments. Part V.C.2 of the 2009, 2014 and 2016 Permits.
 47. On March 23, 2018, representatives of EPA Region III, accompanied by representatives of MDE and the Maryland Department of Agriculture, conducted an inspection at Respondent's Company 15 Layers.
 48. EPA prepared an inspection report dated July 12, 2018 which included observations made by EPA representatives during the inspection as well as observations regarding Respondent's compliance with the requirements of the 2014 and 2016 Permits.
 49. EPA sent a copy of the Inspection report to the Respondent on July 12, 2018.
 50. On September 27, 2018, EPA sent a Notice of Noncompliance (NON) to Respondent that identified permit violations that were observed during the March 23, 2018 inspection.
 51. On September 27, 2018, pursuant to Section 308 of the CWA, EPA requested information and documents from Respondent to obtain further clarification on Respondent's compliance with the NPDES permit requirements for CAFOs ("308 Request").
 52. Respondent provided EPA with information and documents in response to EPA's 308 Request on November 19, 2018 and December 18, 2018.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Count I

Respondent violated the applicable permit when it land applied process wastewater at the Company 2 Layers, Company 6 Layers and Company 15 Layers facilities which were permitted as no-land application CAFOs.

53. The allegations of Paragraphs 1 through 52 of this AOC are incorporated herein by reference.
54. Prior to the submittal of Respondent's NOIs on September 26, 2019 for coverage under the 2016 Permit, all five of Respondent's CAFOs were identified by Respondent as no-land application facilities.
55. In response to EPA's 308 Request, Respondent provided its Comprehensive Nutrients Management Plan, signed by the Respondent on January 16, 2014, and its Nutrient Management Plan, updated March 5, 2018.
56. Respondent's CNMP covers all five of the CAFOs listed in Paragraph 35, above.
57. The CNMP provides that wastewater from egg washing from the three layer facilities is to be collected in earthen impoundments, and then exported and spray irrigated on cropland operated by another farmer and not operated by the Respondent. CNMP at 40-41, 141-142, 144.
58. The CNMP provides that the operations of these facilities do not include any fields for land application. CNMP at p. 65. *See also* NMP, indicating that the NMP is for total export facilities.
59. At all times relevant to the violations alleged herein, the areas where the wastewater was being land applied at the three layer facilities was "under the control" of Respondent as such term is defined in 40 C.F.R. 122.23(b)(3).
60. From at least January 1, 2015 until September 26, 2019, Respondent land applied via spray irrigation wastewater from the egg washing process on at least 15 separate occasions at the three layer facilities "under the control" of the Respondent.
61. From at least January 1, 2015 until September 26, 2019, Respondent did not submit new NOIs and revised plans for land-application activities for Company 2 Layers, Company 6 Layers and Company 15 Layers.
62. Respondent's acts and/or omissions as alleged in Paragraphs 60 and 61, above, constitute violations by Respondent of the 2014 and 2016 Permit requirements and the Act.

Count II

Respondent failed to maintain storage structure documentation

63. The allegations of Paragraphs 1 through 62 of this AOC are incorporated herein by reference.
64. The 2014 and 2016 Permits require permittees to document the total design storage volume and the days of storage capacity of wastewater storage structures, whether the permittee land applies or exports the wastewater. Parts IV.A.6.c(5) and IV.A.7.a(4) of the 2014 and 2016 Permits.
65. From at least March 23, 2018 until November 19, 2018, Respondent failed to document the total design storage volume of wastewater storage structures for Company 2 Layers, Company 6 Layers and Company 15 Layers as required under Parts IV.A.6.c(5) and IV.A.7.a(4) of the 2014 and 2016 Permits.
66. Respondent's acts and/or omissions as alleged in Paragraph 65, above, constitute violations by Respondent of the 2014 and 2016 Permit requirements and the Act.

Count III

Respondent failed to conduct or document weekly inspection of stormwater routing structures

67. The allegations of Paragraphs 1 through 66 of this AOC are incorporated herein by reference.
68. The 2014 and 2016 Permits require that the permittee document weekly inspections of storm water routing structures in a logbook, whether the permittee land applies or exports the wastewater and maintain such records for a period of five years. Parts IV.A.6.b(5), IV.A.7.a(6), and Part IV.B.9 of the 2014 and 2016 Permits.
69. From at least January 1, 2015 until November 19, 2018, Respondent failed to conduct or document weekly inspections of the storm water routing structures at its five CAFO facilities as required under Parts IV.A.6.b(5) and IV.A.7.a(6) of the 2014 and 2016 Permits.
70. Respondent's acts and/or omissions as alleged in Paragraph 69, above, constitute violations by Respondent of the 2014 and 2016 Permit requirements and the Act.

Count IV

Respondent failed to conduct or document weekly inspection of the liquid animal waste impoundments

71. The allegations of Paragraphs 1 through 70 of this AOC are incorporated herein by reference.
72. The 2014 and 2016 Permits require that the permittee document weekly inspections of the liquid animal waste impoundments in a logbook, whether the permittee land applies or exports the wastewater. Parts IV.A.6.b(4) and IV.A.7.a(5) of the 2014 and 2016 Permits.
73. Part IV.B.9 of the 2014 and 2016 Permits states: "Maintain all records necessary to document the development and implementation of the NMP and Conservation Plan and all other requirements of Parts IV and V of this permit. These records shall be maintained for five years."
74. From at least January 1, 2015 until November 19, 2018, Respondent failed to conduct or document weekly inspections of the liquid animal waste impoundments at its five CAFO facilities as required under Parts IV.A.6.b(4) and IV.A.7.a(5) of the 2014 and 2016 Permits.
75. Respondent's acts and/or omissions as alleged in Paragraph 74, above, constitute violations by Respondent of the 2014 and 2016 Permit requirements and the Act.

Count V

Respondent failed to conduct or document inspections of dry manure storage

76. The allegations of Paragraphs 1 through 75 of this AOC are incorporated herein by reference.
77. The 2014 and 2016 Permits require that the permittee document inspections of the animal waste storage areas for dry animal waste operations in a logbook, whether the permittee land applies or exports the wastewater. Parts IV.A.6.b(4) and IV.A.7.a(5) of the 2014 and 2016 Permits.
78. Part IV.B.9 of the 2014 and 2016 Permits states: "Maintain all records necessary to document the development and implementation of the NMP and Conservation Plan and all other requirements of Parts IV and V of this permit. These records shall be maintained for five years."
79. From at least January 1, 2015 until November 19, 2018, Respondent failed to conduct or document inspections of the liquid animal waste impoundments at its five CAFO facilities as required under Parts IV.A.6.b(4) and IV.A.7.a(5) of the 2014 and 2016 Permits.

80. Respondent's acts and/or omissions as alleged in Paragraph 80, above, constitute violations by Respondent of the 2014 and 2016 Permit requirements and the Act.

Count VI

Respondent failed to maintain records for either land application of process wastewater, or in the alternative for the export of process wastewater

81. The allegations of Paragraphs 1 through 80 of this AOC are incorporated herein by reference.
82. Part IV.A.6.a of the 2014 and 2016 Permits requires that permittees, which land apply process wastewater, maintain in a land application logbook available for inspection and maintained on-site for a period of five years with the data describing land application animal waste including: the fields in which the animal waste was applied; the application method, rate, time and date; and the soil and weather conditions.
83. Part IV.A.6.c(3) of the 2014 and 2016 Permits require that the permittee that land applies animal waste keep a record of the amount of nitrogen and phosphorus actually applied to each field, including the calculations for the total amount applied.
84. Part IV.A.7 of the 2014 and 2016 Permits require that the permittee that exports manure, litter, or process wastewater shall maintain a no-land operation logbook available for inspection on-site for a period of five years with the name and address of each recipient and the date and quantity of animal wastewater transferred to such recipient.
85. From at least January 1, 2015 until September 26, 2019, Respondent land applied via spray irrigation wastewater from the egg washing process on at least 15 separate occasions at the three layer facilities "under the control" of the Respondent that were not authorized for wastewater land application under Respondent's 2014 and 2016 Permits.
86. From at least January 1, 2015 until September 26, 2019, Respondent failed to maintain in a land application logbook at its the three layer facilities available for inspection the data describing land application animal waste including: the fields in which the animal waste was applied; the application method, rate, time and date; and the soil and weather conditions as required under Part IV.A.6.a of the 2014 and 2016 Permits.
87. From at least January 1, 2015 until September 26, 2019, Respondent failed to maintain a record of the amount of nitrogen and phosphorus actually applied to each field, including the calculations for the total amount applied as required under Part IV.A.6.c(3) of the 2014 and 2016 Permits.

88. Respondent's acts and/or omissions as alleged in Paragraph 85 through 88, above, constitute violations by Respondent of the 2014 and 2016 Permit requirements and the Act.

Count VII

Respondent's impoundments storing liquid animal waste did not have depth markers

89. The allegations of Paragraphs 1 through 88 of this AOC are incorporated herein by reference.
90. Part IV.A.2 of the 2014 and 2016 Permits require that any impoundment storing liquid animal waste be equipped with a depth measuring device visible from the outside or back of the storage area, and that indicates the maximum depth as which a 25 year 24-hour storm can be contained.
91. At the time of the March 23, 2018 inspection, Respondent's Company 15 Layers facility process wastewater impoundment did not have a depth marker.
92. Respondent's acts and/or omissions as alleged in Paragraph 91, above, constitute violations by Respondent of the 2014 and 2016 Permit requirements and the Act.

Count VIII

Respondent failed to prevent polluted runoff from dry manure storage pile

93. The allegations of Paragraphs 1 through 92 of this AOC are incorporated herein by reference.
94. Part IV.B.1 of the 2014 and 2016 Permits require that the permittee store dry manure in a way that prevents polluted runoff.
95. At the time of the March 23, 2018 inspection, Respondent's Company 15 Layers facility had multiple uncovered manure stock-piles in the production areas at the facility.
96. At the time of the March 23, 2018 inspection, Respondent's Company 15 Layers facility had process wastewater, consisting of run off from two uncovered manure stockpiles, on the ground and draining toward the vegetated swales that flow into the sediment basins of the facility.
97. Respondent's acts and/or omissions as alleged in Paragraphs 95 and 96, above, constitute violations by Respondent of the 2014 and 2016 Permit requirements and the Act.

Count IX
Respondent did not file complete annual reports

98. The allegations of Paragraphs 1 through 97 of this AOC are incorporated herein by reference.
99. Parts V.C. and V.D of the 2014 and 2016 Permits require that the permittee submit an annual report by March 1st for the previous year, with specified information, including the estimated amount of manure, litter and process wastewater generated, the amount that was land applied, the amount that was transported offsite, the amount of free board in any liquid impoundment every month, and the total numbers of acres used for land application.
100. From at least 2014 until 2017, Respondent's annual reports for 2014-2017 calendar years for the three layers facilities did not include information on the amount of liquid waste collected at such facilities, or whether such liquid waste was exported or land applied.
101. Respondent's acts and/or omissions as alleged in Paragraph 100, above, constitute violations by Respondent of the 2014 and 2016 Permit requirements and the Act.

IV. ORDER

AND NOW, Pursuant to Section 309(a) of the Act, 33 U.S.C. § 1319(a), Respondent is hereby ORDERED to do the following:

102. Within thirty (30) days of the effective date of this AOC, Respondent will provide to EPA the following information:
- a. Copies of updated NOIs and NMPs for each of its five CAFOs described in Paragraph 24, above.
 - b. A copy of Respondent's Logbook for each CAFO and documentation demonstrating the weekly inspections for 2019 of:
 - i. stormwater routing structures;
 - ii. liquid animal waste impoundments, and
 - iii. dry manure storage at each CAFO.
 - c. A copy of the process wastewater land application records for 2019 for each CAFO.
 - d. A copy of Respondent's 2019 Annual Report for each CAFO.
103. Within forty-five (45) days of the effective date of this AOC, Respondent will:

- a. Install a depth marker as required by the permit for each surface impoundments storing liquid animal waste at each CAFO and provide photographic evidence of each depth marker showing 1) its location relative to the surface impoundment and 2) its depth indicators including the maximum depth at which the 25 year, 24-hour storm can be contained.
104. Within ninety (90) days of the effective date of this AOC, the Respondent shall provide to EPA a Corrective Action Plan ("CAP") to include all planned site modifications, operational changes, or installation of additional best management practices (BMPs) to prevent runoff from litter stockpiles onsite at each CAFO in compliance with the Permit. As part of the CAP, Respondent shall include narratives and site drawings (where applicable) regarding Respondent's planned site modifications, operational changes, or installation of additional BMPs.
 - a. The CAP submitted to EPA shall include a schedule for the construction of any proposed site modifications, implementation of operational changes, or installation of additional BMPs. The schedule shall, at a minimum, include dates of completion of milestones for design, bid, construction, and completion of all site alterations or additions identified in the CAP.
 - b. EPA will review the CAP and make a determination of the CAP's completeness and adequacy based on the requirements described in this paragraph. If EPA determines that the CAP is not complete or adequate, EPA shall notify Respondent in writing and Respondent shall resubmit an updated CAP within forty-five (45) days of Respondent's receipt of EPA's notice.
105. This AOC shall terminate upon EPA's determination of the CAP's completeness and adequacy, and submission by Respondent of documentation and certification that the CAP has been fully completed and implemented in accordance with the requirements as described in Paragraph 104, above.
106. Except as otherwise provided in Paragraph 104, above, EPA may review the content of each requirement under this AOC, any certification or submission by Respondent to EPA, and EPA may notify the Respondent, through written correspondence, of any deficiency(ies) in any such required certification or submission. In the event that EPA notifies the Respondent of any deficiency(ies) in any required certification or submission, Respondent shall, within seven (7) calendar days of its receipt of any such notification, modify the deficient certification(s) and/or submission(s) to remedy the identified deficiency(ies), therein providing any additional information deemed necessary by EPA, and re-submit such modified required certification(s) and/or submission(s) to EPA.
107. Any notice, submission, certification, data presentation, or other document submitted by Respondent to EPA pursuant to this AOC which discusses, describes, demonstrates, or

supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirements of this AOC shall be certified by a responsible corporate officer of the Respondent. A responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The aforesaid certification shall provide the following statement above the signature of the responsible corporate officer signing the certification on behalf of Respondent:

I certify under penalty of law that this document and all attachments are true, accurate and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: _____
Name: _____
Title: _____

108. Any notice, submission, certification, data presentation, or other document submitted by Respondent to EPA pursuant to this AOC shall be sent via-email transmission to the attention of:

Mark Zolandz
Enforcement and Compliance Officer
Enforcement Compliance and Assurance Division
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103
Zolandz.Mark@epa.gov

and

Louis F. Ramalho (3RC40)

Sr. Asst. Regional Counsel
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029.
Ramalho.Louis@epa.gov

V. GENERAL PROVISIONS

109. Issuance of this AOC is intended to address the violations described herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Further, EPA reserves any rights and remedies available to it under the CWA, 33 U.S.C. §§ 1251-1388, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Consent Order, following its effective date (as defined below).
110. This AOC does not constitute a waiver or modification of the terms or conditions of the Respondent's Permit. Compliance with the terms and conditions of this Consent Order does not relieve Respondent of its obligations to comply with any applicable federal, state, or local law, regulation or permit.
111. By signing this AOC, Respondent neither admits nor denies the specific factual allegations set forth in this AOC.
112. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this AOC, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
113. EPA reserves all existing inspection authority otherwise available to EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, or pursuant to any other statute or law.
114. The undersigned representative of Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this AOC and to execute and legally bind the party.
115. The provisions of this AOC shall apply to and be binding upon the Respondent and its officers, directors, employees, contractors, agents, trustees, successors and assigns of Respondent.
116. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of

such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this AOC are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

117. Respondent may assert a business confidentiality claim covering part or all of the information which this AOC requires it to submit to EPA, but only to the extent and only in the manner described in Part 2 Subpart B of Title 40 of the C.F.R. The EPA will disclose information submitted under a confidentiality claim only as provided in Part 2 Subpart B of Title 40 of the C.F.R. If Respondent does not assert a confidentiality claim, EPA may make the submitted information available to the public without further notice to Respondent.

VI. EFFECTIVE DATE

This AOC is effective after receipt by Respondent of a fully executed document.

SO ORDERED:

Date: 09/08/2020

KAREN
MELVIN

Digitally signed by
KAREN MELVIN
Date: 2020.09.08
16:33:16 -04'00'

Karen Melvin
Director, Enforcement
& Compliance Assurance Division
U.S. EPA Region III

AGREED TO.

ISE America, Inc.

Date: Aug. 4, 2020


Denise Furd
Vice President - Northeast Operations
and Admin

CERTIFICATE OF SERVICE

I certify that the enclosed Administrative Order on Consent was delivered to the following persons:

Delivery by US Postal Service Priority Mail:

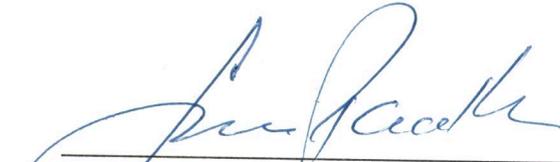
ISE America, Inc.
P.O. Box 267
Galena, MD 21635-8267

Delivery by hand (original and one copy) and electronic mail:

Regional Hearing Clerk (3RC00)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Date: _____

9-14-2020



Louis F. Ramalho
Sr. Assistant Regional Counsel