

AGENDA FOR THE OCTOBER 8, 2009 EC MEETING

CASES TO BE CLOSED:

Eramet Marietta, Inc.	#2696	112r	Final F&Os	Kim/Bryan
Flying J, Inc. (Austinburg Truck Stop)	#2837	NEDO	AGO Referral	Tom/Marc

PENDING CASES:

Mar-Zane, Inc. (Plant #1)	#2671	CDO	Prop. F&Os	John/Marc
Duff Quarry, Inc.	#2842	SWDO	Prop. F&Os	John/Don

OTHER BUSINESS:

- (1) Distribute updated schedule of progress for resolving all "old" cases for 2008.
- (2) Distribute updated schedule of progress on resolving all "old" cases for 2009.
- (3) Distribute updated schedule of progress on resolving all "old" cases for 2010.
- (4) Distribute updated schedule of progress on resolving all "old" cases for 2011.
- (5) Bryan is scheduled to provide food for today's meeting at 3:00 p.m. in DAPC Rm C.
- (6) The next EC meeting is scheduled for Thursday, October 22, 2009 at 3:00 p.m. in DAPC Rm C. Marc is scheduled for food. (Future food schedule: Tom for November 5; .Steve for November 19.)

ENFORCEMENT COMMITTEE MEETING MINUTES

(October 8, 2009)

Case Number:	2688	Dates:	
Entity:	Eramet Marietta	EAR:	01/18/08
Field Office:	112r	DWL:	N/A
Contact:	Kimberly Joseph	F&Os:	10/07/09
Attorney:	Bryan Zima	Referral:	N/A
		Dismissal:	N/A

Background: On April 10, 2008, proposed Director's Final Findings and Orders ("F&Os") were sent to Eramet Marietta to attempt an administrative settlement of the Risk Management Plan requirements in OAC Chapter 3745-104. The F&Os proposed to require Eramet Marietta to pay a civil penalty of \$40,460, with \$32,368 due to Ohio EPA within 14 days after the effective date of the F&Os and \$8,092 due to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP within 30 days after the effective date of the F&Os.

Eramet is a facility that produces manganese and special metal products used by the specialty steel industries. The facility is located at State Route 7, Riverview Road, in Marietta, Ohio. The facility stores a total of 93,000 lbs of anhydrous ammonia in its process, and 76,000 lbs of sulfur dioxide. As a result of storing the toxic substances anhydrous ammonia and sulfur dioxide, the company must file a Risk Management Plan (RMP) pursuant to OAC Chapter 3745-104.

Eramet submitted a RMP in 1999, to the Ohio EPA, stating that all of the information was complete for the RMP Program. In 2002, Ohio EPA audited the RMP Program at the facility, discovered three deficiencies, and sent it a deficiency letter notifying the company that the deficiencies must be corrected. All of the deficiencies were corrected.

In 2004, Eramet submitted its revised RMP five years after the first submittal, as required pursuant to OAC Chapter 3745-104. The second five-year RMP Program audit was conducted on September 26, 2007, and Ohio EPA discovered twelve deficiencies, two of them were repeat violations from the first audit. The facility officials did not submit all of the required documentation as requested by Ohio EPA; therefore, the company was not in compliance at that time. Since this was the second time that the

facility had violated the rules in OAC Chapter 3745-104, and the facility had not submitted the requested documentation, Ohio EPA pursued enforcement action.

A settlement was reached with Eramet Marietta and signed F&Os were submitted to Ohio EPA.

Action: On October 7, 2009, final F&Os were issued to Eramet Marietta by Ohio EPA. The F&Os require the company to pay a civil penalty of \$30,000 to Ohio EPA, with \$24,000 due to Ohio EPA within 14 days after the effective date of the F&Os and \$6,000 due to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP within 30 days after the effective date of the F&Os. Also, within 30 days after the effective date of the F&Os, Eramet Marietta is required to submit: (1) a copy of the schedule for inspecting and testing the mechanical integrity of the ammonia and sulfur dioxide process equipment and (2) documentation showing that the company has de-registered each of the covered processes that were previously operated at the facility.

Case Closed



Case Number: 2837

Entity: Flying J, Inc.

Field Office: NEDO

Contact: Jim Kavalec/Tom Kalman

Attorney: Marcus Glasgow

Dates:

EAR: 07/08/09

DWL: N/A

F&Os: 08/18/09 (prop.)

Referral: 09/29/09

Dismissal: N/A

Background: On August 18, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Flying J, Inc. ("Flying J"), of Ogden, Utah, to attempt an administrative settlement of the violations of the Stage II vapor control system requirements for its gasoline dispensing facility ("GDF") located at 2349 Center Road in Austinburg, Ashtabula County, Ohio. This GDF is subject to the requirements of OAC Rule 3745-21-09(DDD) concerning Stage II vapor control systems. Also, PTI #02-15824 and a Permit-by-Rule were issued to Flying J for this GDF on February 2, 2002 and December 18, 2007, respectively, and require compliance with OAC Rule 3745-21-09(DDD).

The proposed F&Os addressed the following violations of those requirements:

- (1) OAC Rule 3745-21-09(DDD)(1)(b) and (c), for failure to properly operate and maintain the vapor control system and the failure to successfully pass the testing requirements of OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle. Specifically, Flying J continued to operate the dispensers at the GDF before and after failing the annual static leak and air-to-liquid ("A/L") ratio tests on August 7, 2007 and August 19, 2008 due to malfunctions of the vacuum pump motors and a leaking drop tube. Repairs and successful passing tests were conducted on December 11, 2007 and July 14, 2009, respectively, after each failing test.
- (2) OAC Rule 3745-21-09(DDD)(2)(f), for the failure to complete and successfully pass the annual static leak and A/L ratio tests within one year from the last passing test (December 11, 2007) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle.
- (3) ORC § 3704.05(C) and (G), for violating rules adopted by the Director pursuant to ORC Chapter 3704 and violating permits issued by the Director pursuant to ORC Chapter 3704

The F&Os proposed to require Flying J to do the following:

- (1) Within 30 days after the effective date of the F&Os, demonstrate that the vapor control system is operating correctly by conducting and passing the static leak, A/L ratio, and dynamic pressure performance tests;
- (2) Conduct weekly inspections of the Stage II vapor control system for the next two ozone seasons, i.e., April 1, 2010 to October 31, 2010, and April 1, 2011 to October 31, 2011, beginning on March 15, 2010 and March 15, 2011, checking for leaks, malfunctions or damage to the system;
- (3) Perform static leak and A/L ratio tests at this GDF prior to the beginning (during March) of each ozone season and during August of each ozone season for the next two ozone seasons; and
- (4) Pay a civil penalty of \$29,650 to Ohio EPA, with \$23,720 due within 14 days after the effective date of the F&Os and with \$5,930 due to the Clean Diesel School Bus Program Fund as a SEP within 30 days after the effective date of the F&Os.

The Enhanced Enforcement Protocol penalty policy was used to calculate the civil penalty.

Flying J responded by letter dated September 1, 2009 wherein it indicated that it had filed for Chapter 11 bankruptcy protection on December 22, 2008. Furthermore, it indicated that it would be unable to apply funds to the payment of any fines relating to the violations because the violations occurred in 2007 and 2008. As a result, DAPC decided to recommend to the Director that the case be referred to the Attorney General's Office ("AGO") for enforcement action through the bankruptcy court.

Action: In a letter dated September 29, 2009, the Director referred this case to the AGO for appropriate enforcement action. The items proposed to be required in the F&Os were requested to be obtained by the AGO. **Case Closed**



Case Number: 2671
Entity: Mar-Zane Plant #1
Field Office: CDO
Contact: John Paulian
Attorney: Marcus Glasgow

Dates:
EAR: 10/25/09
DWL: N/A
F&Os: 09/29/09 (prop.)
Referral: N/A
Dismissal: N/A

Background: Mar-Zane owns and operates Plant #1 (Ohio EPA facility ID number 0121010197) located at 2408 Section Line Road, Delaware, Delaware County, Ohio. The facility consists of a raw material handling operation and an asphalt plant (emissions unit P001).

On June 17, 2004, Ohio EPA issued a Permit to Install ("PTI") to National Lime and Stone Company (the previous owner of the facility until purchased by Mar-Zane in 2004) for emissions unit P001 (PTI #01-08778), a 250 TPH asphalt batch plant. The terms and conditions of the PTI allowed the company to burn on-spec used oil in emissions unit P001 provided the oil met the specifications outlined in the permit's Special Terms and Conditions. Used oil containing more than 1,000 PPM halogen is presumed to be a hazardous waste per 40 CFR Part 266.40(c) and OAC Chapter 3745-279. Section II, B., Special Terms and Conditions, paragraph 2.c. permitted the company to burn used oil containing more than 1,000 PPM (but less than 4,000 PPM) halogens provided that the used oil supplier had demonstrated to the Ohio EPA's Division of Hazardous Waste Management ("DHWM") that the on-spec used oil did not contain hazardous waste. Mar-Zane began burning used oil containing greater than 1,000 PPM halogens in emissions unit P001 on October 26, 2004, and continued using this fuel through at least

July 14, 2007. Neither Mar-Zane or its supplier, Usher Oil, contacted DHWM prior to the use of this used oil as a fuel at the facility, in violation of Part II, Section B., paragraph 2.c. of PTI 01-08778 and ORC Section 3704.05(C).

On April 25, 2006, Ohio EPA issued PTI 01-12005 to Mar-Zane for emissions unit P001, a 325 TPH double drum-mix asphalt plant controlled by a baghouse. The terms and conditions of the PTI restricted volatile organic compound ("VOC") emissions from emissions unit P001 when burning on-spec used oil, #2 fuel oil, #4 fuel oil, or # 6 fuel oil, to less than 14.3 pounds per hour ("lbs/hr").

Mar-Zane did not submit a Permit to Operate ("PTO") application within 90 days of commencing operation of emissions unit P001, in violation of OAC Rule 3745-35-02(B)(5) and Part I, Section A., paragraph 13 of PTI 01-12005.

On October 16, 2006, Mar-Zane conducted emissions testing for VOCs from emissions unit P001. The results of this test were 34.1 lbs/hr, in violation of Part II, Section A., paragraph 1. of PTI 01-12005 and ORC Section 3704.05(C).

Based on the results of this test, on October 4, 2007, Ohio EPA, Division of Air Pollution Control, Central District Office ("CDO") issued a Notice of Violation ("NOV") to Mar-Zane citing it with operating emissions unit P001 out of compliance with the VOC emissions rate established by PTI 01-12005. In the NOV, CDO requested that Mar-Zane submit a compliance plan and schedule that included completing additional burner tuning for emissions unit P001, re-evaluation of plant operations and maintenance, and scheduling another emissions test to demonstrate compliance with the PTI limits.

On June 16, 2008, Mar-Zane conducted a second emissions test for VOCs for emissions unit P001. The results of this test were 83.1 lbs/hr, again in violation of the limit specified in PTI 01-12005. The higher emission rate was attributed to operational problems that occurred during the testing.

On August 13, 2008, Mar-Zane conducted a third emissions test for VOCs for emissions unit P001. The results of this test were 18.5 lbs/hr, still in violation of PTI 01-12005.

On May 6, 2009, Mar-Zane submitted a request for an administrative modification of PTI 01-12005 to increase the VOC emissions limit for emissions unit P001 from 14.3 lbs/hr to 52.23 lbs/hr and 20.1 tons per year.

Based on the emissions testing data from the August 13, 2008, test, Ohio EPA has re-evaluated the Best Available Technology determination for emissions unit P001 and has

proposed increasing the permitted VOC emissions limit for the emissions unit to 21.28 lbs/hr. This limit will be incorporated into a new Permit to Install and Operate ("PTIO") to be issued to Mar-Zane as a Chapter 3745-31 modification of the existing permit.

Action: Proposed Director's Final Findings and Orders were sent to Mar-Zane on September 29, 2009. The proposed Orders would require Mar-Zane to complete the following actions:

Within 30 days after the effective date of the Orders, submit an application for a PTIO requesting a modification to the existing permit for an increase in allowable VOC emissions from emissions unit P001.

Pay a civil penalty of \$65,975, of which \$42,780 would be due within fourteen days of the effective date of the Orders.

In lieu of paying the remaining \$23,195 of the civil penalty, Mar-Zane would fund two supplemental environmental projects ("SEPs"). \$13,195 would fund a contribution to the Ohio Clean Diesel School Bus Program Fund. The remaining \$10,000 would be used to fund a pollution prevention study at the facility.

Case Continued



Case Number: 2842
Entity: Duff Quarry
Field Office: SWDO
Contact: Eric Yates/John Paulian
Attorney: Don Vanterpool

Dates:
EAR: 07/22/09
DWL: N/A
F&Os: 09/22/09 (prop.)
Referral: N/A
Dismissal: N/A

Background: Duff Quarry owns property located at the intersection of St. Rts. 33 and 274 in Huntsville in Logan County. The property was purchased by Duff Quarry within the last 12 months. The property was previously a residential property that was also used to store and scrap mobile home trailers. It is expected that Duff Quarry will use the property for either a portable asphalt plant or cement plant.

On July 13, 2009, SWDO received a complaint that Duff Quarry was conducting open burning of demolition debris at the above-mentioned property. Upon inspection of the

property on July 15, 2009, SWDO discovered two large piles of smoldering waste that were approximately 10 to 15 feet wide and 50 to 70 feet long. A visible flame was still present at one location in the pile.

Open burning of such waste material is prohibited by rule, and the open burning was not otherwise exempted from the prohibition of OAC Rule 3745-19-04(A).

During the open burning inspection, SWDO discovered that the demolition debris being burned resulted from the demolition of several mobile home trailers and a building formerly used as an office building by the previous property owner. SWDO did not receive a notification of demolition or an asbestos survey for the former office building located on the property.

Duff Quarry's open burning and demolition actions violated OAC Rule 3745-19-04(A) which prohibits the open burning of demolition debris, OAC Rule 3745-20-02(A) by failing to conduct a thorough inspection for asbestos prior to beginning the demolition, and OAC Rule 3745-20-03(A) by failing to provide notification of demolition or renovation at least ten working days before the beginning of any demolition operation.

Action: On September 29, 2009, proposed Director's Final Findings and Orders were sent to Duff Quarry. The Orders require Duff Quarry to pay a civil penalty of \$8,000 to settle the open burning violations. **Case Continued**



ACTIONS & MINUTES APPROVED BY:



Bob Hodanbosi, Chief, DAPC

NEXT MEETING:

October 22, 2009

3:00 pm

6C

PENDING AIR ENFORCEMENT COMMITTEE CASES

Total Unresolved Cases (102)

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2527	Carmeuse Lime, Inc., Maple Grove Facility (HPV)	NWDO	DV/UD	11/05/02	06/19/06
2618	TRC Industries	Akron	SF/MM	03/03/06	05/04/07
2638	Fairport Yachts, LTD (multi-media)	NEDO	MG/PP	01/27/98	07/02/07
2657	Environmental Affairs Management, Inc. (asbestos)	M-TAPCA	SF/FU	06/07/07	08/17/07
2671	Mar-Zane, Inc. (Plant #1)	CDO	MG/JP	12/11/06	10/25/07
2676	OmniSource Corporation - Lima Division	NWDO	MG/MM	02/23/06	11/08/07
2679	Rascal House Pizza / Cardinal Environmental Services, Inc. (asbestos)	Cleve.	BZ/EY	03/02/07	12/04/07
2685	Quickrete - Cleveland Plant	Akron	DV/UD	10/17/07	12/14/07
2687	Cast Fab Technologies	HAMCO	BZ/TT	04/25/05	12/17/07
2691	Unique Finishers, Inc., D & S Coating, and Binks Coating (all 3 formerly L & C, Inc.)	RAPCA	BZ/PP	06/29/06	12/28/07
2693	Ameriseal Restoration LLC	Akron	DV/FU	04/26/07	10/26/07
2698 (112r)	Sugar Creek Packing Co.	N/A	DV/SS	01/03/08	01/31/08
2701 (VC)	City of Dayton, Advanced Wastewater Treatment Facility	RAPCA	BZ/JK	02/19/08	02/19/08
2707	Thermo-Rite Manufacturing Co. (HPV)	Akron	MG/UD	02/12/08	03/12/08
2708	Dave Sugar Excavating, Inc.	SEDO	DV/MM	03/13/05	02/04/08
2710	Stein, Inc.	Cleve.	BZ/EY	07/31/07	03/14/08
2713	Quality Ready Mix	NWDO	BZ/ PP	12/21/06	04/10/08
2719 (112r)	Sugar Creek Packing Co. (Dayton)	N/A	DV/SS	03/26/08	04/28/08
2722	Tuscarwas County YMCA, M-Cor Inc., Raeder Construction, et al.	SEDO	BZ/UD	12/20/07	05/05/08
2723	Cognis Oleochemicals, LLC (HPV)	HAMCO	DV/PP	01/03/07	05/19/08
2725	Hosea Project Movers, LLC (asbestos)	HAMCO	SF/TT	05/06/07	05/16/08
2726	Glick Real Estate LTD/All-Type Demolition and Excavating (asbestos)	Canton	BZ/FU	05/19/06	05/19/08
2731 (112r)	H. B. Fuller Company	N/A	DV/KJ	03/26/08	06/04/08
2739	BP - Husky Refining LLC	TDES	BZ/JP	08/01/07	07/18/08
2744	The Afco Group (asbestos)	NEDO	BZ/JK	02/14/08	08/06/08

Updated: 10/08/09

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2745	OmniSource Corporation	NWDO	MG/MM	12/14/05	08/11/08
2748	Great Plains Exploration, LLC	NEDO	BZ/UD	05/01/08	08/27/08
2750 (VC)	New Day Farms, LLC / Henning Construction Company	CDO	SF/JP	08/21/08	08/21/08
2752	Allied Corporation (Plant #75)	Akron	MG/JP	01/29/05	09/02/08
2760	Precision Environmental Company	Akron	SF/PP	08/06/08	10/22/08
2775	Selvey's Dirt Works / Famous Supply (asbestos)	NWDO	DV/UD	06/12/08	11/05/08
2776	Circle K (GDF's #5204, 5209, 5318, and 5320)	NEDO	MG/JK	03/15/07	11/04/08
2777	Sawbrook Steel LLC	HAMCO	BZ/MM	11/13/06	11/07/08
2779 (112r)	Sunoco, Inc. R & M (Toledo Refinery)	N/A	DV/KJ	04/29/08	11/14/08
2781	Great Lakes Crushing, Ltd. (asbestos)	NEDO	SF/PP	06/18/08	11/18/08
2782	International Converter, Inc. - Caldwell (HPV)	SEDO	DV/FU	07/05/08	11/26/08
2783	Evonik Degussa Engineered Carbons Corporation (HPV)	SEDO	MG/TT	03/17/08	11/26/08
2784	Reichert Excavating, Inc. (asbestos)	CDO	SF/EY	06/12/08	12/04/08
2786	D & R Supply, Inc.	NEDO	MG/UD	09/17/07	12/24/08
2789	Complete Clearing, Inc. (asbestos)	NWDO	MG/PP	07/09/08	02/05/09
2790	Erie Materials, Inc.	NWDO	SF/TT	04/16/08	02/05/09
2791	Carmeuse Lime, Inc. (Millersville) (HPV)	NWDO	DV/FU	02/14/06	02/09/09
2793	Combs' Trucking Incorporated	HAMCO	SF/MM	07/16/08	02/09/09
2794	Kenmore Construction Co., Inc.	Akron	DV/UD	05/14/08	02/13/09
2795	Evans Landscaping, Inc.	HAMCO	MG/TT	05/01/08	02/23/09
2799	Convenient Food Mart, Inc., No. 391	NEDO	SF/EY	10/21/08	02/24/09
2800	Gary Rogers, d.b.a. Rogers Sunoco	NEDO	DV/JK	10/21/08	02/24/09
2801	Terry Adams, d.b.a. Rusty's Auto Care Shell	NEDO	MG/JK	01/29/07	02/25/09
2803	Wheeling Brake Band & Friction Mfg., Inc./Investment Capital of America, Inc./Rob Burgess Enterprises, LLC (asbestos) (multi-media case, DSIWM lead)	SEDO	DV/PP	01/13/09	02/26/09
2806	Ramon Patel, d.b.a. Marathon Quick Mart	NEDO	DV/JK	10/21/08	03/02/09
2808	Randy Wise	NWDO	SF/ FU	11/05/08	03/20/09

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2810	Ellwood Engineered Castings Co. (HPV)	NEDO	DV/TT	02/25/09	03/13/09
2811	NewKor, Inc.	Cleve.	SF/EY	01/27/09	03/30/09
2813	ConSun Food Industries, Inc. (Convenient Food Mart #746)	NEDO	DV/JK	08/08/08	03/27/09
2814	Barrett Paving Materials, Inc. (HPV)	HAMCO	SF/PP	01/16/08	04/01/09
2815	Royal Sebring Properties, Inc., a.k.a. Zee Tech Warehousing	M-TAPCA	MG/JK	09/17/07	04/02/09
2816	Republic Engineered Products, Inc. (HPV)	NEDO	DV/	11/13/07	04/16/09
2817	S.H. Bell Company	NEDO	MG/TK	01/16/08	04/21/09
2819	Masonic Temple/The New Victorians, Inc./AHC, Inc. (asbestos)	CDO	DV/	01/24/08	04/27/09
2820	Bailey PVS Oxides Delta, L.L.C.	NWDO	MG/JK	03/29/07	04/27/09
2821	OmniSource Corporation, Mansfield Division	NWDO	MG/MM	05/08/08	05/04/09
2822	J. S. Paris Excavating, Inc./Signature Development Group, LLC (asbestos)	MTAPCA	SF/TT	03/11/08	04/28/09
2823	Rudzik Excavating, Inc./Charles J. Arendas (asbestos)	MTAPCA	DV/FU	02/27/09	05/11/09
2824	Ariel Corporation (HPV)	CDO	MG/EY	04/02/08	05/18/09
2825	El Ceramics LLC	HAMCO	SF/JK	03/11/08	05/08/09
2826	Staker Alloys, Inc.	RAPCA	DV/FU	11/14/07	05/29/09
2827	Evelyn M. (Burger) Koch (asbestos)	MTAPCA	MG/UD	07/21/08	06/01/09
2829(VC)	ODNR, Division of Forestry (regarding the Shawnee State Forest open burning)	Ports.	DV/JP	04/24/09	06/03/09
2830	Barberton Steel Industries, Inc.	Akron	MG/MM	08/21/08	06/16/09
2833	Veterans of Foreign Wars Post 6519 (asbestos)	Lake Co.	DV/TT	04/29/08	06/22/09
2834	Foti Contracting, LLC	Akron	MG/FU	10/23/08	06/29/09
2835	Elyria Foundry Company (HPV)	NEDO	SF/PP	10/18/07	07/13/09
2836	Uni-Mart, Inc. (#04767, #04768, #74775)	NEDO	DV/JK	11/10/08	07/13/09
2839	Liberty Gas USA, LLC (Middle Avenue GDF in Elyria)	NEDO	DV/JK	07/07/09	07/21/09
2840	Von Vittersan Le Copla USA LLC Delaware Corporation (asbestos)	MTAPCA	MG/UD	07/03/08	07/23/09
2841	Salvatore Sorice/Michael A. Kernan (asbestos)	MTAPCA	SF/MM	03/13/09	07/27/09
2842	Duff Quarry, Inc.	SWDO	DV/EY	07/13/09	07/28/09

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2843	Bruewer Woodwork Mfg. Co. (FER case)	HAMCO	MG/UD	06/06/08	07/28/09
2844	Iten Industries, Inc. (Plant 1) (HPV)	NEDO	SF/MM	04/18/08	07/28/09
2845	Blackhawk Automotive Plastics, Inc. (FER case)	HAMCO	DV/TT	06/06/08	07/28/09
2847	Ultimate Building Systems, Ltd.	HAMCO	SF/FU	04/29/08	08/03/09
2848	Sandusky Dock Corporation	NWDO	BZ/JO	07/27/08	08/06/09
2849	Dean Calhoun/Tim Gearhart (asbestos)	NWDO	DV/MM	03/27/09	08/11/09
2850	Yochman Excavating, Inc. (open burning)	M-TAPCA	MG/PP	03/23/09	08/05/09
2851	Joseph Eberz (open burning)	Akron	SF/JK	05/15/09	08/10/09
2852	AOHW Corporation/Hasper Leggett (asbestos)	M-TAPCA	DV/UD	03/25/09	08/11/09
2853	Valentine Contractors, Inc.	Akron	MG/TT	05/30/08	08/17/09
2854	Ohio Turnpike Commission (Vermillion Valley and Middle Ridge Service Plazas)	NEDO	SF/JK	05/19/09	09/03/09
2855	Lakeside Fuel Mini-Mart	NEDO	DV/JK	02/09/09	09/09/09
2856	Dorothy Jeannine Slessman	NWDO	MG/MM	08/02/09	09/14/09
2857	Pure Gas Incorporated (North Ridge Road GDF and East Erie St. GDF in Lorain)	NEDO	SF/JK	09/09/09	09/22/09
2858	Burnham Foundry, LLC	SEDO	DV/TK	04/01/08	09/22/09
2859	Rollin Cooke, d.b.a. Concord Sunoco and Cooke's Service	NEDO	MG/JK	07/20/09	09/17/09
2860	Richard C. Zahn	Akron	SF/PP	06/15/09	09/14/09
2861	Scott Klem	Akron	DV/TT	08/14/09	09/14/09
2863	Circle K (4 GDFs)	HAMCO	MG/JK	05/28/08	08/01/09
2864	Forest Creek Mobile Home Park	HAMCO	SF/ FU	03/19/09	09/25/09
2865	Great Lakes Construction Co.	HAMCO	DV/UD	05/07/09	09/25/09
2866	3M Medina (HPV)	Akron	MG/ PP	08/27/09	09/29/09
2867 (VC)	ODNR, Division of Forestry (regarding another Shawnee Forest open burning)	Ports.	SF/JP		09/02/09
2868	Endres Processing Ohio, LLC	NWDO	BZ/JP	07/30/09	10/06/09
2869	Bridgestone APM Company, Foam Products Division	NWDO	DV/EY	02/11/08	10/06/09
2870	Simon Excavating	NWDO	MG/		10/15/09

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
January													
		0					UK						

Total for the month of January =

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
February													
2736	Emanuel Hadgigeorgiou d.b.a. Society Dry Cleaners	3	Cleve.	JP	EY	DV	07/03/08						02/12/09
2747	Tri-County Concrete Co., Inc.	1	Akron	TK	MM	DV	08/19/08			Closed - NPA	02/12/09		
2762	Copley Fairlawn City Schools (E-check)	3	N/A	JP	JP	DV	10/01/08					02/11/09	
2768	Orange Board of Education (E-check)	3	N/A	JP	JP	DV	10/01/08					02/06/09	
2659	Steve Jones and George Webber (asbestos)	1	NEDO	TK	FU	DV	08/31/07			Closed-NFA	02/26/09		
2728	Protec Pac	1	SWDO	JP	EY	MG	05/21/08			Closed-NFA	02/26/09		
2759	Kay Enterprises, Inc., d.b.a. Waste Removal Equipment	3	Akron	TK	UD	MG	10/21/08			Unilateral		02/26/09	

Total for the month of February = 7

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
March													
2650	Duer Construction Company	3	Akron	TK	MM	SF	07/23/07						03/13/09
2757	N-Viro International Corporation	3	TDES	JP	EY	SF	10/10/08					03/24/09	
2758	Brush Wellman, Inc.	3	NWDO	TK	MM	DV	10/15/08					03/24/09	
2769	Tallmadge Board of Education (E-check)	3	N/A	JP	JP	DV	10/01/08					03/23/09	
2785	Miller Garage Door Company	3	Akron	TK	MM	DV	12/09/08			Unilateral F&Os		03/13/09	

Total for the month of March = 5

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
April													
2639	Keim Lumber Company, Inc.	3	NEDO	TK	UD	SF	07/02/07					04/09/09	
2755	Liberta Construction Company	3	Akron	TK	FU	MG	09/15/08					04/09/09	
2724	Moser Construction Company, Inc.	3	Akron	TK	MM	MG	05/19/08						04/10/09
2746	Steel Structures of Ohio, LLC	1	Akron	TK	MM	SF	08/19/08		10/15/08 (DWL)	Closed-NFA	04/23/09		
2765	Lagrange Township Trustees (E-check)	3	N/A	JP	JP	DV	10/01/08					04/15/09	
2773	George Rank	3	NWDO	TK	FU	MG	10/27/08			Unilateral F&Os		04/16/09	
2792	Grand Avenue Realty Corporation, d.b.a. DLH Plating, and Clean CEMP (asbestos)	3	CDO	JP	EY	MG	02/10/09						04/13/09

Total for the month of April = 7

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
May													
2753	Richard Morrow	3	NEDO	TK	PP	SF	09/08/08			Unilateral F&Os		05/01/09	
2802	James Brown	3	RAPCA	TK	UD	SF	03/13/09						05/01/09
2763	Deerfield Township Trustees (E-check)	3	N/A	JP	JP	DV	10/01/08					05/15/09	
2766	Lorain County Regional Transit Authority (E-check)	3	N/A	JP	JP	DV	10/01/08					05/15/09	
2780	Magnesium Elektron North America, Inc.	3	NWDO	TK	JK	MG	11/17/08					05/14/09	
2804	Tim Davidson	3	SWDO	JP	EY	MG	03/18/09					05/21/09	

Total for the month of May = 6

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
June													
2654 VC	Shaw High School (City of East Cleveland)	3	Cleve.	JP	JP	SF	08/16/07			Dismissed	06/18/09		
2692	Production Paint Finishers, Inc. (HPV)	3	RAPCA	JP	EY	MG	12/28/07						06/18/09
2741	Plasti-Kote Company, Inc. (HPV)	3	Akron	TK	JK	MG	07/14/08					06/17/09	
2770	Village of Gloria Glens (E-Check)	3	N/A	JP	JP	DV	10/01/08					06/18/09	
2797	T. S. Trim, Inc. (HPV)	3	CDO	JP	EY	SF	03/02/09					06/17/09	

Total for the month of June = 5

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
July													
2742	Gas and Oil, Inc. (GDFs 2, 3, 7, 15, & 19)	3	Akron	TK	TT	SF	07/13/08						06/26/09
2771	Village of North Randall (E-check)	3	N/A	JP	JP	DV	10/01/08					06/30/09	
2798	Canary Cleaners	1	TDES	JP	EY	MG	03/03/09			Closed-NFA	07/02/09		
2828	Leroy and Judith Schaffer	3	SWDO	JP	EY	SF	06/08/09			Unilateral F&O's		06/30/09	
2695	Precision Aggregates III, LLC	3	NWDO	TK	UD	BZ	01/14/08					07/08/09	
2772	Village of Oakwood (E-check)	3	N/A	JP	JP	DV	10/01/08					07/07/09	
2805	Thomas McMinn, d.b.a. Wellington Citgo	1	NEDO	TK	JK	SF	02/26/09			Closed-NFA	07/16/09		
2809	Procex, Ltd.	3	Akron	TK	MM	MG	03/16/09						07/07/09
2831	Aleris International, Inc./IMCO Recycling of Ohio,	3	SEDO	TK	TK	MG	06/19/09						07/07/09

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
	Inc./Commonwealth Aluminum Concast of Ohio, Inc.												
2712	Cleveland Trencher Company	3	Cleve.	JP	EY	DV	03/24/08						07/14/09

Total for the month of July = 10

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
August													
2761	Cleveland Board of Education (E-Check)	3	N/A	JP	JP	DV	10/01/08					08/11/09	
2764	Homer Township Trustees (E-Check)	1	N/A	JP	JP	DV	10/01/08			Closed-NFA	08/13/09		
2787	Airstream, Inc.	3	SWDO	JP	EY	SF	01/09/09					08/11/09	
2788	Gas Express, Inc.	3	Akron	TK	JK	DV	01/27/09						08/12/09
2832	United Tool and Machine	1	SWDO	JP	EY	SF	07/01/09		08/04/09 (DWL)	Closed-NFA	08/13/09		
2704	Gallo's Convenient Market	1	Cleve.	JP	EY	SF	03/05/08			Closed-NFA	08/13/09		
2732 VC	Ohio DNR, Division of Forestry (for open burning permit 07-30)	3	Ports	JP	JP	MG	05/14/08			Dismissed	08/14/09		
2807	Hishan Jundi, d.b.a. Avon Lake Shell	3	NEDO	TK	JK	MG	03/16/09						08/19/09
2812	Saif Khan, d.b.a. Lakeland Valero	3	NEDO	TK	JK	MG	03/25/09					08/20/09	

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
2846	Joseph Parker	3	SWDO	JP	EY	MG	08/03/09			Unilateral F&O's		08/18/09	

Total for the month of August = 10

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
September													
2666	James Conley	1	SWDO	JP	EY	BZ	09/25/07			Closed-NFA	09/24/09		
2733	McCarthy Corporation	3	NWDO	TK	UD	SF	06/23/08			Unilateral F&Os		09/22/09	
2754	Lepi Enterprises, Inc. (asbestos)	3	SEDO	TK	TT	DV	09/12/08					09/08/09	
2756	Pioneer Environmental Systems, Inc. (asbestos)	3	NWDO	TK	JK	BZ	10/03/08					09/22/09	
2774	Total Environmental Services, LLC (asbestos)	3	SEDO	TK	TT	SF	10/29/08					09/17/09	
2796	Speedway SuperAmerica, LLC (#3648 and #9975)	3	NEDO	TK	JK	SF	02/24/09					09/22/09	
2862	Speedway SuperAmerica, LLC (#1183 and #5110)	3	HAMCO	TK	JK	SF	05/21/09					09/22/09	
2818	Mac Trailer Manufacturing, Inc.	1	Canton	TK	MM	SF	04/07/09		06/17/09 DWL	Closed-NFA	09/24/09		
2838	Englefield, Inc., d.b.a. Ashtabula	1	NEDO	TK	JK	SF	07/14/09		08/12/09 DWL	Closed-NFA	09/24/09		

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
	Duchess												

Total for the month of September = 9

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
October													
2696	Eramet Marietta, Inc.	3	N/A	TK	KJ	BZ	01/18/08					10/07/09	
2837	Flying J, Inc. (Austinburg Truck Stop)	3	NEDO	TK	JK	MG	07/08/09						09/29/09

Total for the month of October = 2

Summary of Compliance with Effective Findings and Orders

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Ball & Sons Construction (11/08/96)	Civil penalty: (\$1,000.00)	563513	11/22/96	Y	FSC**

Smith Foundry & Machine Co. (12/31/96)	Civil penalty: (\$25,000.00)				
	\$5,000.00	530404	01/31/97		01/23/97
	\$5,000.00	530405	01/31/98		01/23/98
	\$5,000.00	530406	01/31/99		01/19/99
	\$5,000.00	530407	01/31/00	Y	ACT**
	\$5,000.00	541831	01/31/01	Y	ACT**
	AC		01/15/97		N/A*
	IC		06/16/97		N/A*
	CC		08/15/97		N/A*
	Conduct emission tests - submit results		10/15/97		N/A*
* The cupola has been removed. The 12/96 F&O's were revised to reflect the installation of electric induction furnaces rather than controls for the cupola.					

Mark Fuerst (02/08/00)	Civil penalty (\$10,000.00)				
	to ODNR \$2,000.00	606212	03/08/00	Y	FSC**
	to OEPA \$2,000.00	172154	04/08/00	Y	*
	\$2,000.00	172155	05/08/00	Y	FSC**
	\$2,000.00	172156	06/08/00	Y	FSC**
	\$2,000.00	172157	07/08/00	Y	FSC**
* Paid \$1,654 on 2/10/09. \$165.40 of that amount was paid to AGO.					

American Environmental Abatement Company, Inc. (12/29/00)	Civil penalty: (\$2,500)				
	to OEPA \$2,000	206005	01/12/01		01/16/01
	to ODNR \$500	564224	01/29/01	N	

Anco Properties (06/19/01)	Civil penalty: (\$23,000)				
	to OEPA \$4,600	224714	09/19/01	Y	FSC**
	\$4,600	224715	12/19/01	Y	FSC**
	\$4,600	224716	03/19/02	Y	FSC**
	\$4,600	224717	06/19/02	Y	FSC**
	to ODNR \$4,600	613129	07/19/01	N	FSC**

Superior Demolition and Excavating (12/28/01)	Civil penalty: (\$15,000)				
	to ODNR \$3,000	270395	01/11/02		01/10/02
	to OEPA \$3,000	270396	01/28/02		02/11/02
	\$3,000	270397	02/28/02		03/14/02
	\$3,000	270398	03/28/02		04/23/02
	\$3,000	270399	04/28/02	Y	UNC**

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	Cert. y/n	Completion Date
Richard and Joby Hackett (04/04/02)	Civil penalty: (\$3,000)				
	to OEPA	\$150	279226	09/04/02	Y RTN**
		\$150	279227	10/04/02	Y RTN**
		\$150	279228	11/04/02	Y RTN**
		\$150	279229	12/04/02	Y RTN**
		\$150	279230	01/04/03	Y RTN**
		\$150	279231	02/04/03	Y RTN**
		\$150	279232	03/04/03	Y RTN**
		\$1,350	279233	04/04/03	Y RTN**
	to ODNR	\$150		05/04/02	
	\$150		06/04/02		
	\$150		07/04/02		
	\$150		08/04/02		

Schloss Materials Company (09/18/02)	Civil penalty: (\$6,000)				
	to OEPA	\$4,000	304257	10/02/02	09/30/02
	to ODNR	\$2,000	564243	10/18/02	N
	pave entrance & access road to facility			10/31/02	06/03/04*
* CDAQ inspection date					

City of Oregon (09/16/02)	Civil penalty: (\$10,000)				
	to OEPA	\$8,000	304256	09/30/02	09/30/02
	to ODNR	\$2,000	564249	09/30/02	N
	conduct asbestos fire training			02/01/03	01/8-14-15&29/03

Cleveland Industrial Drum Service, Inc. (10/30/02)	Civil penalty: (\$1,000)				
	to OEPA	\$800	314152	11/13/02	06/24/03
	to ODNR	\$200	564255	11/30/02	N

M & J Excavating (11/27/02)	Civil penalty: (\$2,450)				
	to ODNR	\$490	564257	12/27/02	09/25/02
	to OEPA	\$392	333074	01/27/03	Y 09/27/03
		\$392	333075	02/27/03	Y 10/25/03*
		\$392	333076	03/27/03	Y UNC
		\$392	333077	04/27/03	Y 01/24/04*
	\$392	333078	05/27/03	Y 01/24/04*	

Chris Corso (12/02/02)	Civil penalty: (\$7,000)				
	to OEPA	\$1,600	319940	12/16/02	12/16/02
		\$2,000	319941	03/02/03	09/04/03
		\$2,000	319942	06/02/03	09/27/03
	to ODNR	\$1,400	614162	01/02/03	N

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Goldline Wrecking Co. (12/23/02)	Civil penalty: (\$35,000)				
	to OEPA \$ 8,000	333227	04/23/03		06/30/04*
	\$10,000	333228	12/23/03	Y	10/27/08**
	\$10,000	333229	06/23/04	Y	10/27/08**
	to ODNR \$ 7,000		01/23/03		01/22/03

* The AGO Special Counsel collected \$8,134.92. The AGO kept \$723.13 of that amount.

** Ohio EPA agreed to a payment of \$13,150 to satisfy the remaining claim of \$20,000. Special Counsel received \$4,339.50 and the AGO received \$1,183.50 of the \$13,150 for their collection services.

Glo-Mar Masonry (02/06/03)	Civil penalty: (\$8,500)				
	to ODNR \$1,700	583375	03/06/03	Y	
	to OEPA \$ 500	336723	03/06/03	P	06/23/03
	\$2,100	336724	06/06/03	Y	01/24/04
	\$2,100	336725	08/06/03	Y	04/24/04
	\$2,100	336726	02/06/04	Y	03/26/05* (\$680.60)

* Account Certified to AGO. Three partial payments made totaling (\$680), still owe \$1,419.40

Ford Motor Company, Cleveland Casting Plant (12/24/03)	Civil penalty: (\$40,000)	413303	01/31/04		01/07/04
	Submit modeling analysis		02/29/04		

Minerva Enterprises, Inc. (12/31/03)	Civil penalty: (\$41,125)				
	\$3,500	413351	01/31/04	Y	07/29/04a
	\$3,500	413352	03/02/04	Y	06/16/05b
	\$3,500	413353	04/02/04	Y	08/12/05c
	\$3,500	413354	05/03/04	Y	06/15/05d
	\$3,500	413355	06/03/04	Y	07/22/05e
	\$3,500	413356	07/04/04	Y	08/12/05f
	\$3,500	413357	08/04/04	Y	07/23/04
	\$3,500	413358	09/04/04	Y	12/24/05h
	\$3,500	413359	10/04/04	Y	12/24/05
	\$3,500	413360	11/04/04		07/29/05
\$3,500	413361	12/04/04	Y	11/10/05	
\$2,625	413362	01/04/05	Y	12/05/05i	

a. Paid \$3,501.92, of which \$315.17 was kept by AGO and \$3,186.75 was put into OEPA's account. The remaining \$1.92 is interest charged.

b. Paid \$53.70 to resolve this claim. \$4.83 of that amount was AGO's share. \$48.87 was put in OEPA's account.

c. Paid \$831.54 to resolve this claim. \$74.84 of that amount was AGO's share. \$756.70 was put in OEPA's account.

d. Paid \$3,574.03 to resolve this claim. \$321.66 of that amount was AGO's share. \$3,252.37 was put in OEPA's account.

e. Paid \$2,211.00 to resolve this claim. \$198.99 of that amount was AGO's share. \$2,012.01 was put in OEPA's account.

f. Paid \$3,903.47 to resolve this claim. \$351.31 of that amount was AGO's share. \$3,552.16 was put in OEPA's account.

h. Paid \$3,500 to resolve this claim. \$315 of that amount was AGO's share. \$3,185 was put in OEPA's account.

I. Paid \$1,141.96 to resolve claim. \$102.78 of that amount was AGO's share. \$1,039.18 was put in OEPA's account.

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
Hydraulic Press Brick (04/28/04)	Civil penalty: (\$19,000)					
	\$7,000	439209	05/12/04		05/12/04	
	\$7,000	439210	08/12/04		05/12/04	
	Submit P ² reports			07/28/04		07/26/04
				10/28/04		10/25/04
				01/28/05		01/21/05
				03/28/05		N/A
Submit cost of P ² study		04/05/05				

Kerry's Motor World (05/13/04)	Civil penalty: (\$3,000.00)	443684	05/27/04	Y		

John Dubuk (12/29/04)	Civil penalty: (\$10,000.00)					
	\$834.00	489979	01/28/05		01/24/05	
	\$834.00	489980	02/27/05		02/24/05	
	\$834.00	489981	03/29/05		03/26/05	
	\$834.00	489982	04/28/05	Y	07/29/06	
	\$834.00	489983	05/28/05	Y	UNC**	
	\$834.00	489984	06/27/05	Y	07/29/06	
	\$834.00	489985	07/27/05	Y	UNC**	
	\$834.00	489986	08/26/05	Y	UNC**	
	\$834.00	489987	09/25/05	Y	UNC**	
	\$834.00	489988	10/25/05	Y	UNC**	
\$834.00	489989	11/24/05	Y	UNC**		
\$826.00	489990	12/24/05	Y	UNC**		

C & J Contractors (12/21/04)	Civil penalty: (\$5,600.00)	479998	01/21/05	Y	*	

Bohanan Investments, Inc. (04/14/05 - Court Order, Default Judgement)	Civil penalty: (\$127,900.00)	550712	04/14/05	Y		

* This account is Certified and still open--various payments have been made (10/05-05/06) totaling \$2,150, leaving a balance of \$3,450.

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
Columbus Steel Drum (07/06/05 - Consent Order)	Civil penalty: (\$500,000.00)					
	Bus Fund	\$25,000	514606	07/31/05	09/20/05	
		\$25,000	514607	10/01/05	10/12/05	
		\$25,000	514608	01/01/06	02/08/06	
		\$25,000	514609	04/01/06	04/21/06	
	OEPA	\$25,000	514163	07/01/06	07/10/06	
		\$25,000	514164	10/01/06	10/30/06	
		\$25,000	514165	01/01/07	01/09/07	
		\$25,000	514166	04/01/07	04/11/07	
		\$25,000	514167	07/01/07	08/01/07	
		\$25,000	514168	10/01/07	10/17/07	
		\$25,000	514169	01/01/08	03/12/08	
		\$25,000	514170	04/01/08	04/15/08	
		\$25,000	514171	07/01/08	07/01/08	
		\$25,000	514172	10/01/08	10/01/08	
		\$25,000	514173	01/01/09	04/08/09	
		\$25,000	514174	04/01/09	07/17/09	
		\$21,250	514175	07/01/09		
		\$21,250	726464	09/01/09		
		\$21,250	726465	11/01/09		
		\$21,250	726466	12/01/09		
		Submit PTI app. for K001-K003		08/06/05		05/31/05
		Award contracts		30 days from issuance of PTI		
		IC		60 days from issuance of PTI		07/16/06
		CC		180 days from issuance of PTI		07/13/07
	Perform stack tests		210 days from issuance of PTI		07/03/07	
	Submit ITT for P015 & P016		07/20/05		06/07/05	
	Perform stack tests		12/27/05		06/23/05	
	Submit PTI app. for P015 & P016		30 days after submission of test results		09/22/05	
	Award Contracts		30 days from issuance of PTI		*	
	IC		60 days from issuance of PTI		*	
	CC		120 days from issuance of PTI		*	
	Perform stack tests		150 days from issuance of PTI		*	
	Perform stack tests for P001, P005, P012 & P013		09/06/05		07/5-7/05	
* PTI not issued due to the continued incomplete nature of the PTI application.						

Alfred Nickles Bakery, Inc. (08/24/05)	Civil penalty: (\$37,800)					
	OEPA	\$10,240	519964	09/24/05	09/23/05	
	Bus Fund	\$7,560	519965	09/24/05	09/23/05	
	Submit P ² report			11/24/05		
	Submit P ² report			02/24/06		
	Submit final P ² report			05/24/06		
	Submit documentation of costs			08/24/06		

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
Shell Construction, Inc. (09/26/05)	Civil penalty: (\$3,700)					
	OEPA	\$100.00	526004	10/26/05	09/27/05	
		\$100.00	526005	11/25/05	11/10/05	
		\$100.00	526006	12/25/05	12/20/05	
		\$100.00	526007	01/24/06	10/28/06	
		\$100.00	526008	02/23/06	10/28/06	
		\$100.00	526009	03/25/06	10/28/06	
		\$100.00	526010	04/24/06	09/13/06	
		\$100.00	526011	05/24/06	09/13/06	
		\$100.00	526012	06/23/06	09/13/06	
		\$100.00	526013	07/23/06	09/13/06	
		\$100.00	526014	08/22/06	11/02/06	
		\$100.00	526015	09/21/06	11/02/06	
		\$100.00	526016	10/21/06	11/02/06	
		\$100.00	526017	11/20/06	11/02/06	
		\$100.00	526018	12/20/06	11/14/06	
		\$100.00	526019	01/19/07	11/30/06	
		\$100.00	526020	02/18/07	11/30/06	
		\$100.00	526021	03/20/07	12/18/06	
		\$100.00	526022	04/19/07	01/10/07	
		\$100.00	526023	05/19/07	02/02/07	
		\$100.00	526024	06/18/07	03/01/07	
		\$100.00	526025	07/18/07	03/12/07	
		\$100.00	526026	08/17/07	05/07/07	
		\$100.00	526027	09/16/07	06/27/07	
		\$100.00	526028	10/16/07	06/27/07	
		\$100.00	526029	11/15/07	06/27/07	
		\$100.00	529030	12/15/07	06/27/07	
		\$100.00	526031	01/14/08	08/13/07	
		\$100.00	526032	02/13/08	08/13/07	
		\$100.00	526033	03/14/08	10/24/07	
		\$100.00	526034	04/13/08	10/24/07	
		\$100.00	526035	05/13/08	10/24/07	
		\$100.00	526036	06/12/08	Y	05/07/09
		\$100.00	526037	07/12/08	Y	
		\$100.00	526038	08/11/08	Y	05/07/09
	\$100.00	526039	09/10/08	Y	05/07/09	
	\$100.00	526040	10/10/08	Y		

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Environmental Affairs Management (12/29/05)	Civil penalty: (\$10,000)				
	OEPA	\$1,000	541425	03/29/06	03/06/06
		\$1,000	541426	03/29/06	Y FSC**
		\$1,000	541427	05/28/06	Y FSC**
		\$1,000	541428	06/27/06	Y 12/28/07
		\$1,000	541429	07/27/06	Y FSC**
		\$1,000	541430	08/26/06	Y FSC**
		\$1,000	541431	09/25/06	Y FSC**
		\$1,000	541432	10/25/06	Y ACT**
	Bus Fund	\$1,000	541433	01/28/06	01/25/06
	\$1,000	541434	02/27/06	02/25/06	

Cargill, Incorporated (03/03/06 - Consent Decree) * - CD modification on 11/26/08	Civil penalty: (\$61,538)				
	OEPA	\$30,769	551695	03/27/06	04/03/06
	RAPCA	\$30,769	----	03/27/06	03/29/06
	Pay Title V permit fees	\$216,133.86		02/27/06	09/28/05
	Contribute \$75,000 to RAPCA's wood stove replacement program			04/15/06	03/21/06
	Retire B005			09/01/07	09/14/06
	Install LNB & FGR for B006			03/03/11	
	Propose final VOC solvent loss limit for Sidney			02/27/09	
	Comply w/final VOC solvent loss limit for Sidney			02/27/10	
	Meet 95% control for VOC or 10 ppm for P067 & P582 at Dayton			02/27/09	06/17/08
	Meet 98% control for VOC for P057, P031, P052, P088, & P072 at Dayton			09/01/10	
	Meet control equipment operating parameters for P032, P033 and P034 at Dayton			02/28/10*	
	Test and establish an allowable short-term VOC limit for each scrubber stack serving P032, P033 and P034 at Dayton			02/28/10*	
	Submit permit applications for P032, P033 and P034 at Dayton to incorporate control equipment operating parameters and VOC emission limits			09/01/10*	
	Submit PTI application to cap VOC and NOx emissions from Dayton at less than 854 tons/yr			09/01/10*	
	Comply w/ emission cap for Dayton			09/01/10*	
	Submit odor control optimization report for Dayton			09/01/06	08/29/06
	Meet 90% control for CO or 100 ppm for P067 and P582 at Dayton			02/27/09	06/17/08
	Meet 90% control for CO or 100 ppm for P057, P031, P052, P088 & P072			09/01/10	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
Sunoco, Inc. (03/20/06 - Consent Decree)	SEP Project (\$50,000)					
	Pay contractor for project		04/20/06		08/01/06	
	Install SCR for FCCU		12/31/09			
	Install WGS for FCCU		12/31/09			
	Comply with NSPS for SO ₂ and opacity for FCCU		12/31/09			
	Comply with NSPS for PM for FCCU		03/20/06		03/20/06	
	Comply with NSPS for CO for FCCU		03/20/08		03/27/08	
	Reduce NOx emissions from heaters and boilers greater than 40mm Btu/hr by at least 2,189 tons/yr			03/20/14		
	Achieve 2/3 of 2,189 tons/yr NOx reduction			03/20/10		
	Submit a detailed NOx Control Plan			07/20/06		07/05/06
	Install a second Claus train and 2 TGUs at the SRP			12/31/09		
	Submit optimization study for the SRP			09/20/06		09/10/06
	Implement recommendations of optimization study for SRP			03/20/07		03/12/07
	Propose interim performance standards for SRP			03/20/07		03/12/07
	Submit enhanced O & M plans for SRP and TGUs			09/20/06		09/08/06
	Submit Phase One review and verification of the TAB and BWON compliance status for 2 refineries			11/20/06		11/03/06
	Modify procedures for annual review of process information for benzene waste streams			09/20/06		08/01/06
	Implement annual benzene training for employees			06/20/06		06/08/06
	Develop SOPs for all benzene control equipment			09/20/06		09/08/06
	Submit schematics for waste/slop/off-spec oil streams			05/20/06		05/11/06
	Develop and submit written LDAR program			09/20/06		09/08/06
	Implement an LDAR training program			03/20/07		03/14/07
	Perform LDAR compliance audit			12/20/06		12/07/06
	Develop QA & QC procedures for LDAR monitoring			07/20/06		07/11/06
	Develop LDAR personnel accountability program			09/20/06		09/08/06
	Submit application to revise Title V permit to incorporate CD requirements			09/20/06		10/31/06

David Scholl (09/25/06)	Civil penalty: (\$400)	584589	10/25/06		12/11/06* 05/26/07*
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* Made a partial payment of \$200 on 12/11/06. \$200 was certified to AGO. Payment of \$180 + \$20 AGO portion was made on 5/26/07

Alpha-Omega Chemical Company (12/14/06)	OEPA	\$1,000	605635	05/14/07		Civil penalty 08/20/07
		\$1,000	605636	09/14/07	Y	
		\$1,200	605637	12/14/07	Y	
	Bus Fund	\$ 800	605638	01/14/07	Y	07/29/07

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Astro Manufacturing & Design, Inc. (12/29/06)	Civil penalty (\$34,000)				
	OEPA	\$12,200	600221	01/29/07	01/23/07
	Bus Fund	\$ 6,800	600222	01/29/07	01/23/07
	Submit INR			01/29/07	11/30/06
	Submit semi-annual exceedance reports			01/29/07	04/12/07
	Submit detailed P ² report			03/29/07	03/29/07
	Submit detailed P ² report			06/29/07	
	Submit detailed P ² report			09/29/07	
	Submit final P ² report			11/29/07	
Submit PTI and Title V permit applications			03/01/07	11/30/06	

Gas and Oil, Inc. (03/14/07)	Civil penalty: (\$10,000)				
	OEPA	\$8,000	607778	06/14/07	Y BSC
	Bus Fund	\$2,000	607779	06/14/07	Y BSC
	Submit ITT			04/14/07	
	Conduct tests for #2, #3, #15 & #19			06/14/07	
	Submit test results			07/14/07	
	Submit PTO renewal application for #19			04/14/07	

Robert Henry and April Garner (07/11/07)	Civil penalty: (\$1,000)		616290	08/11807	Y ACT

Eslich Wrecking Company (07/16/07 - Consent Order)	Civil penalty: (\$44,853)		623581	08/16/07	08/20/07
	(\$44,853 = 45% of \$99,674)				
	Submit survey and plan to install protective physical barrier			08/16/07	
	Install cap			w/i 60 days of OEPA approval of survey and plan	
Grant a new deed			w/i 30 days of OEPA approval of survey		

Avalon Cleaners (08/21/07)	Civil penalty: (\$1,000)				
	OEPA	\$250	624475	09/21/07	Y
		\$250	624476	10/21/07	Y
		\$250	624477	11/21/07	Y
		\$250	624478	12/21/07	Y
	Submit records & documentation			01/31/08	
Submit records & documentation			07/31/08		

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Tim Weiland (09/06/07)	Civil penalty: (\$250)	624378	10/06/07	Y	SKP

Alfred Nickles Bakery, Inc. (11/08/07)	Civil penalty: (\$60,250)				
	OEPA	\$46,200	634724	12/08/07	11/02/07
	Bus Fund	\$14,050	634725	12/08/07	11/02/07
	Submit P ² report			02/08/07	
	Submit P ² report			05/08/07	
	Submit P ² report			08/08/07	
	Submit final P ² report			10/08/07	
	Submit cost documentation			w/i 30 days of approval of report by OEPA	

The Premcor Refining Group, Inc. (11/20/07 - Consent Decree)	Civil penalty: (\$800,000)				
	OEPA	\$640,000	634775	12/20/07	12/19/07
	Bus Fund	\$160,000	634776	12/20/07	12/19/07
	Submit plan to meet .060 lb NO _x /MMBtu for heaters and boilers			12/31/08	12/10/08
	Install controls to meet .060 lb NO _x /MMBtu for heaters and boilers			12/31/11	
	Submit plan to meet .044 lb NO _x /MMBtu for heaters and boilers			12/31/10	
	Install controls to meet .044 lb NO _x /MMBtu for heaters and boilers			12/31/13	
	Submit report that demonstrates compliance with limits for heaters and boilers			03/31/12	
				03/31/14	
	Submit report re: the NO _x concentration emissions for the FCCU thru optimization of O ₂ CS			03/01/12	
	Submit report that demonstrates compliance w/ <u>interim</u> NO _x system-wide average for FCCUs			03/31/11	
	Submit report that demonstrates compliance w/ final NO _x system-wide average for FCCUs			03/31/14	
	Commence implementation of SO ₂ adsorbing catalyst additive protocol for FCCU			11/20/07	09/07/07
	Comply w/ CO emission limit for FCCU			02/20/08	11/20/07
	Comply w/ opacity and PE limits for FCCU			12/31/13	
	Submit alternative monitoring plan application for NSPS Subpart J monitoring for SO ₂ at FCCU			12/31/08	12/19/08

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
The Premcor Refining Group, Inc (Continued)	Discontinue burning of fuel oil in heaters and boilers		11/20/07		08/16/07	
	Determine compliance w/ 6 BQ compliance option & submit a Benzene Waste NESHAP Compliance Review and Verification Report		03/01/08		03/14/08	
	Submit a report re: carbon canisters installed pursuant to Subpart FF		02/20/08		02/12/08	
	Develop annual training program for employees that draw benzene waste samples		02/20/08		03/19/08	
	Develop SOPs for all control equipment used to comply w/ Benzene Waste NESHAP and complete initial training re: SOPs		11/20/08		05/19/08* 02/12/09**	
				* Develops SOPs	** Training	
	Develop and implement procedures to ensure QA/QC for all LDAR data		02/20/08		01/25/08	
	Develop program to hold LDAR personnel accountable for LDAR performance		11/20/07		06/28/07	
	Establish a tracking program for valves and pumps that should be added to LDAR program		11/20/08		01/25/08	
	Reroute any SRP sulfur pit emissions to eliminate emissions		11/20/08		11/03/08	
	Provide description of causes of all acid gas flaring incidents from 1/1/02 thru 12/31/06		11/20/08		08/11/08	
	Submit compliance plan for flaring devices		12/31/09			
	Certify compliance for all flaring devices		12/31/13			
	Complete design of compressor system for P025		12/20/07		01/03/08	
	Complete installation of compressor system for P025		04/01/08		04/01/08	
	Submit T5 permit applications to incorporate emission limits required by Consent Decree		12/31/07		06/12/08	
	Pay \$200,000 to develop and implement a Traffic Signal Synchronization study for City of Lima		02/20/08		01/25/08	
	Install controls for unregulated and uncontrolled relief vents at Refinery (spend \$675,000 for SEP)		12/31/09			
	Submit plan for the Lima Infrared Camera Imaging Project (spend \$50,000 for SEP)		02/20/08		02/12/08	
	Transfer \$200,000 to LADCO for PM 2.5 speciation		02/20/08		01/18/08	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
The Premcor Refining Group, Inc (Continued)	Transfer \$50,000 to Ohio Environmental Council for control of emissions from municipal trucks and buses		02/20/08		01/18/08

E. I. Du Pont de Nemours & Company (11/06/07 - Consent Decree)	Civil penalty: (\$550,000)				
	OEPA	\$440,000	634777	12/06/07	12/19/07
	Bus Fund	\$110,000	634778	12/06/07	12/19/07
	Comply w/ short-term SO ₂ emission limit of 2.2 lbs/ton			03/01/11	
	Comply w/ Mass Cap of 281 TPY			03/01/13	
	Submit proposed O&M Plan for short-term SO ₂ limit			11/01/10	
	Submit a complete T5 permit application for Consent Decree SO ₂ limits			09/01/11	

Converters Prepress (12/06/07 - Consent Order)	Civil penalty: (\$5,004)				
	OEPA	\$139.00	644190	01/06/08	02/22/08
		\$139.00	644191	02/06/08	03/26/08
		\$139.00	644192	03/06/08	03/26/08
		\$139.00	644193	04/06/08	04/04/08
		\$139.00	644194	05/06/08	05/05/08
		\$139.00	644195	06/06/08	05/30/08
		\$139.00	644196	07/06/08	07/14/08
		\$139.00	644197	08/06/08	08/04/08
		\$139.00	644198	09/06/08	08/29/08
		\$139.00	644199	10/06/08	09/29/08
		\$139.00	644200	11/06/08	11/06/08
		\$139.00	644201	12/06/08	12/02/08
		\$139.00	644202	01/06/09	12/30/08
		\$139.00	644203	02/06/09	02/09/09
		\$139.00	644204	03/06/09	03/11/09
		\$139.00	644205	04/06/09	03/31/09
		\$139.00	644206	05/06/09	05/05/09
		\$139.00	644207	06/06/09	06/01/09
		\$139.00	644208	07/06/09	07/06/09
		\$139.00	644209	08/06/09	08/07/09
		\$139.00	644210	09/06/09	
		\$139.00	644211	10/06/09	
		\$139.00	644212	11/06/09	
		\$139.00	644213	12/06/09	
		\$139.00	644214	01/06/10	
		\$139.00	644215	02/06/10	
		\$139.00	644216	03/06/10	
		\$139.00	644217	04/06/10	
		\$139.00	644218	05/06/10	
		\$139.00	644219	06/06/10	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Converters Prepress (Con't)		\$139.00 644220	07/06/10		
		\$139.00 644221	08/06/10		
		\$139.00 644222	09/06/10		
		\$139.00 644223	10/06/10		
		\$139.00 644224	11/06/10		
		\$139.00 644225	12/06/10		

Real Spaces Property for Rent (12/31/07)	Civil penalty: (\$17,700) OEPA	\$ 600.00 645338	01/30/08		02/07/08
		\$ 600.00 645339	02/29/08		03/12/08
		\$ 600.00 645340	03/30/08		05/05/08
		\$ 600.00 645341	04/29/08		06/09/08
		\$ 600.00 645342	05/29/08		07/03/08
		\$ 600.00 645343	06/28/08		08/04/08
		\$ 600.00 645344	07/28/08		09/11/08
		\$ 600.00 645345	08/27/08		11/17/08
		\$ 600.00 645346	09/26/08		01/13/09
		\$ 600.00 645347	10/26/08	Y	
		\$ 600.00 645348	11/25/08	Y	
		\$ 600.00 645349	12/25/08	Y	
		\$ 600.00 645350	01/24/09	Y	
		\$ 600.00 645351	02/23/09		
		\$ 600.00 645352	03/25/09		
		\$ 600.00 645353	04/24/09		
		\$ 600.00 645354	05/24/09		
	\$ 600.00 645355	06/23/09			
	\$3,360.00 645356	07/23/09			
	Bus Fund \$3,560.00 645357	07/23/09			

Christopher Vincent (02/15/08)	Civil penalty: (\$1,000)	653134	03/16/08	Y	ACT

James Brown (03/11/08)	Civil penalty: (\$750)	653125	04/11/08	Y	ACT

Bates Recycling, Inc. (06/04/08)	Civil penalty: (\$1,000)	657594	06/18/08	Y	

Craig Eddy (06/04/08)	Civil penalty: (\$750)	657302	07/04/08	Y	

Warren Ropp (06/02/08)	Civil penalty: (\$250)	657293	07/02/08	Y	

JR's Truck Parts (06/02/08)	Civil penalty: (\$500)	657294	07/02/08	Y	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Peter Backer (07/01/08)	Civil penalty: (\$750)	657790	07/31/08	Y	

W. A. Miller (07/16/08)	Civil penalty: (\$1,000)	666334	08/16/08	Y	*
* Partial payment of \$350 received 10/20/08 - Potential to Certify. *****					
Lanny Reynolds (07/16/08)	Civil penalty: (\$750)	666335	08/16/08	P	

Lance Dudgeon (07/09/08)	Civil penalty: (\$500)	659540	08/09/08	Y	

Johnathan Strickland (07/16/08)	Civil penalty: (\$2,000)	666331	08/16/08	Y	

Luci, Inc. (07/08/08)	Civil penalty: (\$10,000)				
	OEPA \$8,000	659538	08/08/08	Y	
	Bus Fund \$2,000	659539	08/08/08	Y	

Ford Motor Company (07/31/08)	Civil penalty: (\$1,400,000)				
	OEPA \$1,120,000	666337	08/31/08		08/18/08
	Bus Fund \$280,000	666338	08/31/08		08/18/08
	Shut down cupola 3 and mold line 7		12/31/08		12/11/08
	Shut down cupola 1 & 2 and mold lines 2 & 3		12/31/10		

Douglas Kehres (08/13/08)	Civil penalty: (\$500)	666363	09/13/08	Y	

Great Lakes Crushing Ltd. (10/01/08)	Civil penalty: (\$12,000)				
	OEPA \$9,600	686990	10/31/08	Y	
	Bus Fund \$2,400	686991	10/31/08	Y	04/23/09

Erie Materials, Inc. (09/24/08 - Consent Order)	Civil penalty: (\$180,000)				
	OEPA \$144,000	686933	10/24/08		12/03/08
	Bus Fund \$36,000	686932	10/24/08		12/03/08
	Conduct emission testing		w/i 60 days of permit issuance or w/i 60 days of startup of 2009 season if permit issued after 9/1/08		
	Pay emissions fees of \$7,330 for 1995 through 2007 for Sandusky and for 1999 through 2005 for Portage		10/24/08		10/09/08

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Robert Montgomery, Sr., d.b.a. Montgomery Auto Salvage (10/16/08)	Civil penalty: (\$3,000)	688462	11/15/08	Y	

Re-Gen, Inc. (01/15/09 - Consent Order)	Civil penalty: (\$70,000)				
	OEPA	\$28,000	709526	02/14/09	02/11/09
		\$28,000	709527	01/15/10	
	Bus Fund	\$ 7,000	709528	02/14/09	02/11/09
		\$ 7,000	709529	01/15/10	
	Submit complete approvable synthetic minor PTIO app.		w/i 60 days of resuming operations		
	Submit FERs for 1999-2007 and pay \$8,000 in past emission fees		upon receipt of invoice from OEPA		06/12/09

Ultimate Industries, Inc. (02/25/09 - Consent Order)	Civil penalty: (\$4,200)				
	EPA	\$175.00	712529	03/05/09	05/12/09
		\$175.00	712530	04/05/09	06/15/09
		\$175.00	712531	05/05/09	08/07/09
		\$175.00	712532	06/05/09	
		\$175.00	712533	07/05/09	
		\$175.00	712534	08/05/09	
		\$175.00	712535	09/05/09	
		\$175.00	712536	10/05/09	
		\$175.00	712537	11/05/09	
		\$175.00	712538	12/05/09	
		\$175.00	712539	01/05/10	
		\$175.00	712540	02/05/10	
		\$175.00	712541	03/05/10	
		\$175.00	712542	04/05/10	
		\$175.00	712543	05/05/10	
		\$175.00	712544	06/05/10	
		\$175.00	712545	07/05/10	
		\$175.00	712546	08/05/10	
		\$175.00	712547	09/05/10	
		\$175.00	712548	10/05/10	
		\$175.00	712549	11/05/10	
		\$175.00	712550	12/05/10	
		\$175.00	712551	01/05/11	
		\$175.00	712552	02/05/11	

N-Viro International Corp. (03/24/09)	Civil penalty: (\$16,000)				
	OEPA	\$4,000	707974	07/22/09	04/22/09
		\$4,000	707975	10/20/09	07/21/09
		\$4,000	707976	01/18/10	
		\$4,000	707977	04/18/10	
	Bus Fund	\$4,000	707978	04/23/09	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Brush Wellman, Inc. (03/24/09)	Civil penalty: (\$40,000)				
	OEPA	\$28,000 711745	04/24/09		03/26/09
	Bus Fund	\$12,000 711746	04/24/09		03/26/09
	Install 3 TRIBO.d2 particulate emission monitors		09/24/09		
	Submit documentation of SEP cost		10/24/09		

Chemtrade Logistics Inc/Marsulex, (04/02/09 - Consent Decree)	Civil penalty: (\$120,000)				
	OEPA	\$72,000 712639	05/02/09		05/26/09
	Bus Fund	\$24,000 712640	05/02/09		05/26/09
	ODNR	\$24,000	05/02/09		
	Comply w/ short-term and long-term SO ₂ emission rates:	Oregon	07/01/11		
		Cairo	07/01/11		
	Comply w/ acid mist emission rate:	Oregon	04/02/09		
		Cairo	07/01/11		
	Install SO ₂ CEMS:	Oregon	07/01/11		
		Cairo	07/01/11		
	Perform compliance tests:	Oregon	07/01/11		
	Submit O&M Plans:	Cairo	07/01/11		
Submit permit applications:	Oregon	07/01/11			
	Cairo	07/01/11			
	Oregon	01/01/13			
Submit report re: how compliance will be achieved:	Cairo	(365 days after acceptance of short-term limit)			
	Oregon	07/01/10			
	Cairo	07/01/10			

Lagrange Township Trustees (04/14/09)	Civil penalty: (\$250)		05/14/09		
	Report the results of vehicle inspections		12/31/09		

George Rank (04/16/09)	Civil penalty: (\$500)		05/16/09		

Richard Morrow (05/01/09)	Civil penalty: (\$3,000)		05/15/09		

Lorain County Regional Transit Authority (05/15/09)	Civil penalty: (\$250)	714622	06/15/09		

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Tim Davidson (05/21/09)	Civil penalty: (\$3,000)	714624	06/21/09		07/06/09

Container Recyclers, Inc. (d.b.a. Colimbus Steel Drum) (06/08/09 Amended Consent Order for stipulated penalties)	Stipulated penalty: (\$87,050) OEPA \$21,762.50 \$21,762.50 \$21,762.50 Bus Fund \$10,881.25 \$10,881.25	713429 713430 713431 713432 713433	10/23/09 01/18/10 04/16/10 06/05/09 07/17/09		06/01/09 07/16/09

Plasti-Kote Company, Inc. (06/17/09)	Civil penalty: (\$240,000) OEPA \$192,000 Bus Fund \$48,000 Submit either a Title V permit app or a synthetic minor PTI/FESOP app	714631 714632	07/01/09 07/17/09 10/17/09		08/21/09 08/21/09

T.S. Trim Industries, Inc. (06/17/09)	Civil penalty: (\$85,200) OEPA \$68,160 Bus Fund \$17,040 Conduct emission tests Submit test report	714704 714705	07/17/09 07/17/09 08/07/09 09/07/09		06/25/09 06/25/09

Village of Gloria Glens (06/18/09)	Civil penalty: (\$250) Have all vehicles tested and report results	714659	07/18/09 12/31/09		

Village of North Randall (06/30/09)	Civil penalty: (\$1,500) Have all vehicles tested and report results	714660	07/30/09 12/31/09		

Leroy and Judith Schaffer (06/30/09)	Civil penalty: (\$250)	714661	07/30/09		

Precision Aggregates III, LLC (07/08/09)	Civil penalty: (\$15,000) OEPA \$4,500 \$7,500 Bus Fund \$3,000	715181 715182 715183	09/15/09 09/15/10 09/15/09		09/14/09 09/14/09

Village of Oakwood (07/07/09)	Civil penalty: (\$2,500) Have all vehicles tested and report results	714842	08/07/09 11/02/09		08/17/09

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
The Belden Brick Company, L.L.C. (07/06/09 - Consent Order)	Civil penalty: (\$850,000)				
	OEPA	\$170,000	717042	08/06/09	08/17/09
		\$170,000	717043	07/06/10	
		\$170,000	717044	01/06/11	
		\$170,000	717045	07/06/11	
	Bus Fund	\$170,000	717046	08/06/09	08/17/09
	Pay \$334,514.43 for Title V permit emission fees for CY 2001 thru 2006			Upon receipt of invoice from OEPA	
	Submit SO ₂ FERs for CY 1993 thru 2000		01/06/10		
	For Plant 8, pay difference in emission fees for CY 1999 and 2000		Upon receipt of invoice from OEPA		

Cleveland Board of Education (E-Check) (08/11/09)	Civil penalty: (\$5,000)		726483	09/11/09	
	Have all vehicles tested and report results			12/31/09	

Saif Khan, d.b.a. Lakeland Citgo (08/20/09)	Civil penalty: (\$10,000)				
	OEPA	\$ 500	726488	09/20/09	08/06/09
		\$2,500	726489	12/20/09	
		\$2,500	726490	03/20/10	
		\$2,500	726491	06/20/10	
Bus Fund	\$2,000	726492	09/20/09	08/06/09	

Joseph Parker (08/18/09)	Civil penalty: (\$250)		725188	09/18/09	

The Shelly Holding Company, et al. (09/02/09 - Court Order)	Civil penalty: (\$350,123.52)			10/02/09	

McCarthy Corporation (09/22/09)	Civil penalty: (\$3,000)		727233	10/05/09	

Lepi Enterprises, Inc. (09/08/09)	Civil penalty: (\$3,750)		726529	10/08/09	09/11/09

Pioneer Environmental Companies (09/22/09)	Civil penalty: (\$7,000)				
	OEPA	\$2,100	727235	10/22/09	
		\$3,500	727236	03/22/10	
Bus Fund	\$1,400	727237	10/22/09		

Total Environmental Services, LLC (09/17/09)	Civil penalty: (\$5,000)				
	OEPA	\$4,000		10/01/09	
	Bus Fund	\$1,000		10/17/09	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Speedway SuperAmerica, LLC (09/22/09)	Civil penalty: (\$35,880)				
	OEPA	\$28,704	727238	10/05/09	09/29/09
	Bus Fund	\$7,176	727239	10/22/09	09/29/09
	Submit weekly inspection records			11/14/10	
	Submit weekly inspection records			11/14/11	
	Submit results of static leak and A/L ratio tests for 2010			04/14/10	
	Submit results of static leak and A/L ratio tests for 2010			09/14/10	
	Submit results of static leak and A/L ratio tests for 2011			04/14/11	

Eramet Marietta, Inc. (10/07/09)	Civil penalty: (\$30,000)				
	OEPA	\$24,000		10/21/09	
	Bus Fund	\$6,000		11/06/09	
	Submit copy of inspection & testing schedule			11/06/09	
	Submit documentation of de-registering of formerly covered processes			11/06/09	

- ** FSC - Assigned to a Special Counsel
- ACT - Account is being collected in house
- UNC - Account has been placed in a currently uncollectible status
- RTN - Returned from Special Counsel, Unpaid
- PIF - Account is paid in full
- SKP - Account is in the skip tracer desk



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

October 7, 2009

CERTIFIED MAIL

Mr. Gregory D. Timmons, Esq.
General Counsel - Americas
Eramet North America, Inc.
Airport Office Park Building 4-Suite 300
333 Rouser Road
Coraopolis, Pennsylvania 15108

Re: Final Findings and Orders for:
violations of Risk Management Plan
requirements by Eramet Marietta,
Inc., Marietta, Ohio facility

Dear Mr. Timmons:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,

James A. Orlemann, P.E.
Assistant Chief, SIP Development and Enforcement
Division of Air Pollution Control

JAO/pr

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Carol Hester, PIC
Priscilla Roberson, DAPC
Brenda Case, Fiscal Office (Agency # NA)
Bryan Zima, Legal Office
Kim Joseph, DAPC
Jeff McKinney, Eramet Marietta

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

OHIO E.P.A.

OCT -7 2009

BEFORE THE OHIO

ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Eramet Marietta, Inc.
State Route 7, Riverview Rd.
Marietta, Ohio 45750

Directors Final Findings
and Orders

PREAMBLE

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

It is agreed by the parties hereto as follows:

I. JURISDICTION

By: Shirley Lassiter Date: 10-7-09

These Director's Final Findings and Orders (Orders) are issued to Eramet Marietta, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) 3753.01 and 3753.08.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the facility identified below shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3753 and the rules promulgated thereunder.

IV. FINDINGS

Nothing in these Orders shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a facility that produces manganese and special metal products that are used by the steel, aluminum, superalloys, and specialty steel industries. The facility is located at State Route 7 in Marietta, Ohio. The facility is a stationary source within the meaning of OAC Rule 3745-104-01(B)(38). The facility previously operated tanks that contained up to 76,000 lbs of sulfur dioxide and 93,000 lbs of anhydrous ammonia, respectively. Respondent stored more than threshold quantities of regulated substances, namely sulfur dioxide and anhydrous ammonia, as defined in ORC 3745-104-01. The RMP threshold amount for sulfur dioxide is 5,000 lbs, and the threshold amount for anhydrous ammonia is 10,000 lbs. The processes for which these regulated substances were present are

covered processes within the meaning of OAC Rule 3745-104-01(B)(11). The covered processes at Respondent's facility were subject to Program 3 because the chemicals, sulfur dioxide and ammonia are subject to OSHA Process Safety Management and the worst case scenario has population within the distance to the endpoint.

2. Pursuant to Ohio Administrative Code (OAC) Rule 3745-104-05, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined by OAC Chapter 3745-104 shall submit a Risk Management Plan (RMP) no later than June 21, 1999. Respondent submitted a RMP in 1999 as required.
3. On October 30, 2002, Ohio EPA, Division of Air Pollution Control (DAPC) inspectors conducted an audit at Respondent's facility and discovered three rule violations. No penalty was assessed, and Respondent corrected the violations after Ohio EPA gave Respondent notice of the violations.
4. On September 26, 2007, the Ohio EPA conducted a second audit at Respondent's facility and discovered twelve violations of the rules. The violations were as follows:
 - (a) Respondent failed to provide a management system, in violation of OAC Rule 3745-104-07.
 - (b) Respondent failed to maintain records for the hazard assessments, in violation of OAC Rule 3745-104-15.
 - (c) Respondent failed to report an incident in the RMP, in violation of OAC Rule 3745-104-16.
 - (d) Respondent failed to include all of the process safety information, in violation of OAC Rules 3745-104-24(C)(1)(c), (D)(1)(c), (D)(1)(d), (D)(1)(e), and (D)(1)(h).
 - (e) Respondent failed to include stationary source siting and address the recommendations in the process hazard analysis, in violation of OAC Rules 3745-104-25(C)(5) and (E).
 - (f) Respondent failed to annually certify the standard operating procedures, in violation of OAC Rule 3745-104-26(C).
 - (g) Respondent failed to provide refresher training pertaining to the standard operating procedures at least every three years, in violation of OAC Rule 3745-104-27(B).
 - (h) Respondent failed to establish and implement written procedures for

the ongoing integrity of the process equipment, in violation of OAC Rule 3745-101-28.

- (i) Respondent failed to present a compliance audit, and failed to conduct a compliance audit at least every three years, in violation of OAC Rule 3745-104-31. (This is a repeat violation.)
- (j) Respondent failed to evaluate contractors, in violation of OAC Rule 3745-104-35(B)(5).
- (k) Respondent failed to implement an emergency response plan, in violation of OAC Rule 3745-104-36(B)(3).
- (l) Respondent failed to maintain records pertaining to the management of change, in violation to OAC Rule 3745-104-50.

5. Violations referenced in subparagraphs (e) and (i) of this Finding are repeats of violations cited in the 2002 audit.
6. On November 13, 2007, the Ohio EPA sent Respondent a deficiency letter (dated October 31, 2007) requiring the violations to be corrected and documentation submitted within thirty days of receipt of the letter.
7. On December 19, 2007, Respondent submitted documentation pertaining to the violations. Based on the response, Ohio EPA determined that Respondent fully remedied violations (a), (c), (d), (f), (i), (j), (k) and (l) of Finding 7, but did not remedy violations (b), (e), (g) and (h).
8. ORC § 3753.06 prohibits violations of provisions of ORC Chapter 3753 or any rule adopted or issued under it. As of at least September 26, 2007 (the second compliance audit), Respondent has violated rules adopted under ORC Chapter 3753, specifically the Rules cited in Finding 7.
9. The Director has given consideration to, and based on his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Within thirty (30) days after the effective date of these Orders, Respondent shall submit the following to the Ohio EPA:
 - a. A copy of the schedule for inspecting and testing the mechanical integrity of the ammonia and sulfur dioxide process equipment (tanks, piping, valves safety equipment, etc.).
 - b. Verification documentation showing that Respondent has de-registered each of the covered processes, identified in Finding 1 of these Orders, that were previously operated at the facility

2. Pursuant to ORC § 3753.09, Respondent is assessed a civil penalty in the amount of thirty thousand dollars (\$30,000) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of twenty-four thousand dollars (\$24,000) in settlement of Ohio EPA's claims for civil penalties, which shall be deposited into the Risk Management Plan fund established pursuant to ORC § 3753.05. Payment shall be made by an official check made payable to Treasurer, State of Ohio for \$24,000. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, attention Brenda Case, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the facility.

3. In lieu of paying the remaining six thousand dollars (\$6,000) of the civil penalty, Respondent shall fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of \$6,000 to the Ohio EPA's fund for the Clean Diesel School Bus Program (Fund 5CD0). Respondent shall make payment within thirty (30) days after the effective date of these Orders by tendering an official check made payable to Treasurer, State of Ohio for \$6,000. The official check shall be submitted to Brenda Case, together with a letter identifying the Respondent, the facility, and Fund 5CD0, to the above-stated address.

4. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor at the following address:

Ohio EPA
Division of Air Pollution Control
P. O. Box 1049
Columbus, Ohio 43216

5. Should Respondent fail to fund the SEP within the require time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$6,000 of the civil penalty in accordance with the procedures in Order 2.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

This certification shall contain the following attestation: I certify that the information contained in or accompanying this certification is true, accurate and complete.

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a facility official who is in charge of a principal business function of Respondent.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of the Respondent's facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, State and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Kimberly Joseph
Ohio Environmental Protection Agency
DAPC
P.O. Box 1049
Columbus, Ohio 43216-1049

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such and event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

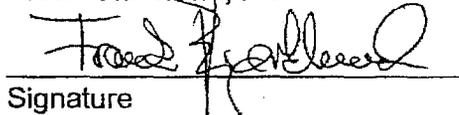


Chris Kortleski
Director

10/5/09
Date

IT IS SO AGREED:

Eramet Marietta, Inc


Signature

09/28/09
Date

Frank Bjorklund

Printed or Typed Name

Chief Executive Officer
Title



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

SEP 29 2009

The Honorable Richard Cordray
Attorney General of Ohio
Environmental Enforcement Section
State Office Tower, 25th Floor
30 East Broad Street
Columbus, Ohio 43266-0410

Re: Referral of Flying J, Inc. (EC Case #2837)

Dear Mr. Cordray:

Pursuant to ORC § 3704.06, I hereby request that you initiate all necessary legal and/or equitable civil actions as may be deemed necessary and seek appropriate penalties against the above-referenced party and any other appropriate party for the violations of ORC Chapter 3704 and the regulations adopted thereunder. A copy of the Division of Air Pollution Control's enforcement file is enclosed.

Thank you for your assistance in this matter. Any questions you may have should be directed to Jim Kavalec of the Division of Air Pollution ("DAPC") (644-4840). He, as well as Tom Kalman of the DAPC Enforcement Section (644-3598), should be kept apprised of the status of this matter and any action taken with regard to it. Please also coordinate all negotiations and any resolution of this case with Jim Orlemann, Assistant Chief, SIP Development and Enforcement, and Enforcement Coordinator of the DAPC.

Sincerely,

Chris Korleski
Director

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Marcus Glasgow, Legal Office
Jim Kavalec, DAPC
Keith Riley/Tim Fischer, NEDO DAPC

Enclosures

CK/JK/jk

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Ohio EPA
Division of Air Pollution Control

INTER-OFFICE COMMUNICATION

TO: Dale Vitale, Chief, Environmental Enforcement Section, Attorney General's Office

FROM: Marcus Glasgow, Staff Attorney and Jim Orlemann, DAPC Enforcement Coordinator

SUBJECT: Notes concerning the referral of Flying J, Inc. to the Attorney General's Office (EC Case #2837)

DATE: September 16, 2009

**CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGED COMMUNICATION
CONFIDENTIAL LAW ENFORCEMENT INVESTIGATORY RECORD**

The Director of Ohio EPA is referring Flying J, Inc. ("Respondent") to the Attorney General's Office ("AGO") for violations of Ohio Revised Code ("ORC") Chapter 3704 and Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD). The August 18, 2009 proposed Director's Final Findings and Orders ("DFFOs"), which were sent to Respondent in an unsuccessful attempt to settle this matter administratively, are attached for the AGO's use in preparing a complaint and consent order. A copy of the enforcement case file is also attached. A brief summary of the case is provided below.

SYNOPSIS

- Respondent owns and operates a gasoline dispensing facility ("GDF") located at 2349 Center Road, in Austinburg, Ashtabula County, Ohio. This GDF is subject to the requirements of Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD) concerning Stage II vapor control systems. As part of the Stage II vapor control system requirements, this GDF is required to conduct Stage II compliance tests, which consist of annual static leak and air-to-liquid ("A/L") ratio tests and a five-year dynamic pressure performance test. The purpose of these tests is to ensure that the Stage II vapor control system is working properly to capture gasoline vapors so they do not contribute to ozone formation.
- On August 7, 2007 and August 19, 2008, Respondent attempted to conduct the annual static leak and A/L ratio tests at this GDF. During each year, the tests failed due to malfunctions with the Stage II vapor control system. In 2007, it took Respondent until December 11, 2007 to repair the Stage II vapor control system and pass a static leak and A/L ratio retest. In 2008, the static leak test failed due to a leaking drop tube and leaking vacuum pump motor and the A/L ratio test

failed for dispenser #7 due to the vacuum pump not working on the dispenser. In 2007 and 2008, Respondent was transferring gasoline into motor vehicles prior to and after the failed static leak and A/L ratio tests. The failure to properly operate and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle are violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On July 14, 2009, Respondent conducted and passed the static leak and A/L ratio tests at this GDF.

- The proposed DFFOs were sent to Respondent on August 18, 2009. The proposed DFFOs would have required Respondent to conduct weekly inspections of the Stage II vapor control system for the next two ozone seasons, checking for leaks, malfunctions or damage to the systems; and for the next two ozone seasons, to perform static leak and A/L ratio tests prior to the beginning (during March) of each ozone season and during August of each ozone season. Lastly, the proposed DFF&Os would have required Respondent to pay Ohio EPA a civil penalty in the amount of twenty-nine thousand six hundred and fifty dollars (\$29,650).
- Ohio EPA received a response from Respondent on September 1, 2009 concerning the August 18, 2009 proposed DFFOs. In this response letter, Respondent indicated that it filed for Chapter 11 bankruptcy protection in December of 2008 and therefore is unable to apply funds to pay the civil penalty for the violations alleged in the proposed Director's Final Findings and Orders dated August 18, 2009. Respondent expressed interest in resolving the matter within the constraints imposed by the Chapter 11 bankruptcy filing.

PENALTY

The calculated civil penalty is \$29,650. (See the attached penalty worksheets.) The Enhanced Enforcement Protocol penalty policy for Stage II vapor control system violations applies a \$5,000 penalty when there are two consecutive test failures for the same test in the same year or when a facility fails any test in two consecutive years. This GDF failed the static leak and A/L ratio tests in two consecutive years, 2007 and 2008; therefore, a \$5,000 penalty was applied. In addition, a multi-day penalty of \$25 per day was assessed for failing to fix and pass the static leak or A/L ratio retests within 30 days.

RECOMMENDATION

Ohio EPA is recommending that the AGO resolve this enforcement case by obtaining a consent order (or a court order, if necessary) requiring the responsible parties to comply with the actions in the proposed DFFOs and pay an appropriate civil penalty. If you have any questions, please contact one of us.

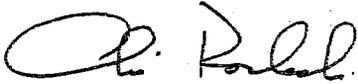
Ms. Crystal Maggelet, President
Flying J, Inc.
Page 2 of 2

retrofit program is provided in an enclosed document.

Please review the attached documents carefully. If you have any questions concerning the proposed Findings and Orders, or if you would like to arrange a meeting or conference call to try to negotiate a settlement via the Findings and Orders, please contact Marcus Glasgow of the Ohio EPA Legal Office, at (614) 644-3037. If he does not hear from Flying J, Inc., within fourteen (14) days of receipt of this letter, concerning its willingness to accept the Findings and Orders as currently written, or with mutually agreed upon modifications, I will consider alternative enforcement mechanisms including referral of the matter to the Ohio Attorney General's Office for legal action.

I hope that Flying J, Inc. and Ohio EPA are able to resolve this matter via the enclosed proposal, and I thank you in advance for your cooperation.

Sincerely,



Chris Korleski
Director

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Jim Kavalec, DAPC
Marcus Glasgow, Legal Office
Keith Riley/Tim Fischer, DAPC NEDO
Brian Christin, Manager, Flying J, Inc.

Enclosures

CK:JK:jk

A guide to the...

Administrative Enforcement Process

Within the Division of Air Pollution Control

Introduction

This information sheet has been prepared to help you understand the administrative enforcement process within the Agency. With an understanding of the process and adequate preparation, you can facilitate a prompt resolution of this enforcement action. Included are answers to the questions most frequently asked by parties involved in the administrative enforcement process.

I have been working with the District Office or local air agency inspector to correct the violations. Why is an enforcement action necessary?

The Agency considers the following factors in deciding that an enforcement action is necessary: (1) Ohio EPA needs to obtain civil penalties for your violations; (2) your violations are serious; (3) you have taken too long to address the violations; (4) you need to be on a formal schedule to address the violations; (5) you have been recalcitrant in addressing the violations; and/or (6) you are a chronic violator.

Why should I try to negotiate an administrative consent order with Ohio EPA?

- Negotiating administrative findings and orders ("Order") with the Ohio EPA avoids expensive and time-consuming litigation.
- Negotiation can be a swift resolution of the State's claims against you for the non-compliance.
- We can quickly identify any obstacle to agreement.
- Negotiation can minimize or prevent any intervention by the USEPA to address the violations.

Should I continue working with the District or local air agency inspector?

Yes, the District Office or local air agency inspector is the best person to work with you to resolve the technical aspects of the violations, and prepare an acceptable control plan and schedule for submission to the Agency. Central Office personnel will also be available to provide assistance.

What should I do now that I received the proposed administrative consent order?

You should review the enclosed Order and the summary of the penalty calculation. If you accept the enclosed Order as written, sign the Order and send it within two weeks to the staff attorney referenced in the Director's letter. If you cannot accept the Order as written, the Agency would like to meet with you to discuss your concerns. Please contact the designated staff attorney at (614) 644-3037 to arrange a meeting.

If I want to have a meeting, what should I do to prepare for it?

Generally, the most productive meetings occur when both parties come prepared to discuss all issues. The Order and correspondence from the District Office or local air agency inspector contain the Agency's position. Since you were not willing to agree to the Order as written, we need to know whether you: (1) disagree with the facts outlined in the Order; (2) are not able or willing to comply with the Order; or (3) have information you feel may mitigate the civil penalty settlement amount. Send the staff attorney a written summary of your issues within two weeks from the date of the Director's letter. Additionally, if you believe you are financially unable to pay the penalty, contact the staff attorney for a list of information we need to evaluate your ability to pay.

What will happen at the meeting?

During the meeting, we will respond to any information you have provided. We are willing to work with you to arrive at mutually agreed upon modifications to the Order. Except in the most complex cases, our goal is to complete all negotiations at the meeting. If we cannot agree at the meeting and we feel we are making adequate progress, we will hold our offer of settlement open. Thereafter, if resolution of the negotiations is not achieved within the time frame agreed to by the parties at the settlement meeting or if we feel we are not making adequate progress, the offer of settlement may be withdrawn, and we may consider other enforcement alternatives, including a referral to the Office of the Attorney General.

Why do I have to pay a civil penalty?

A civil penalty is necessary to deter future violations and to remove any economic advantage you may have realized from not complying with Ohio's regulations. Instead of a full cash payment, the Agency may be willing to accept a supplemental environmentally beneficial project ("SEP"), that meets certain guidelines.

How did the DAPC arrive at the civil penalty settlement amount?

Ohio EPA relied on U.S. EPA's Air Civil Penalty Policy to calculate the penalty. The DAPC uses this Policy to ensure that we calculate penalties fairly and consistently and that the penalty is appropriate for the gravity of the violations. Enclosed is a summary of the DAPC's civil penalty settlement calculation. If you want a copy of the U.S. EPA's Air Civil Penalty Policy, contact the designated staff attorney at (614) 644-3037.

Who from Ohio EPA will be at the meeting?

Everyone necessary to resolve the matter will be at the meeting or available during the meeting to provide settlement authority. This includes the staff attorney, the District Office or local air agency inspector, and Central Office technical personnel.

Who should I bring to the meeting?

Similarly, you should bring anyone familiar with the issues as well as anyone who has the authority to settle this matter. You are welcome to be represented at this meeting by your attorney and your consultant.

News releases

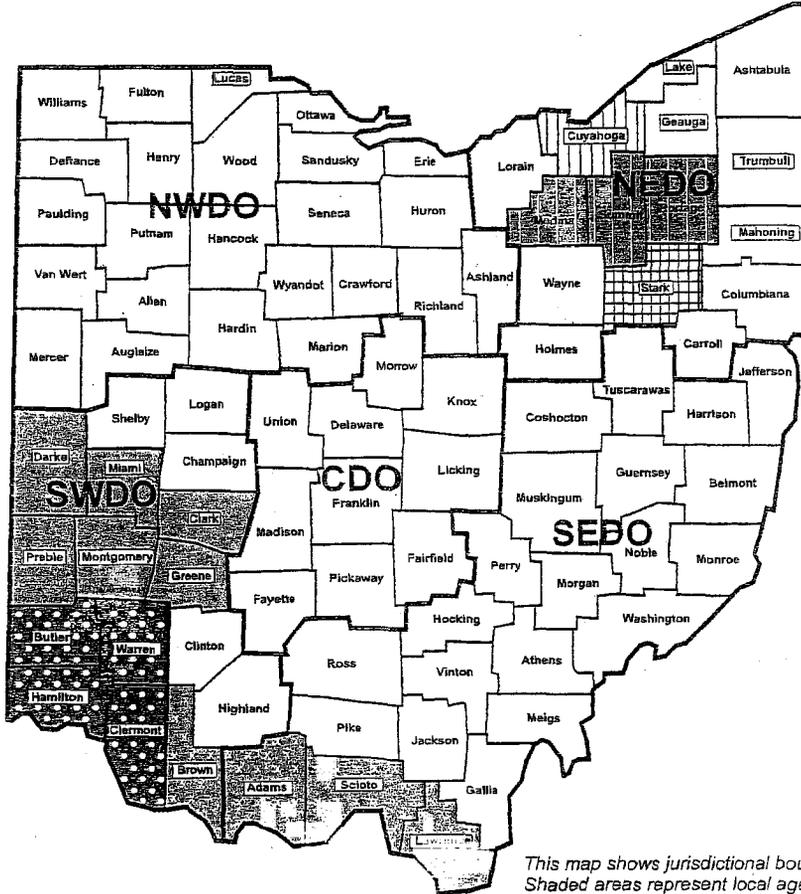
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about our enforcement efforts. Ohio EPA's news release represents our position, and so we do not negotiate the language in the news release with you. If we prepare a news release, you will receive a courtesy copy shortly before it is released to the media and posted on our web site. You can read all of our news releases at: <http://www.epa.state.oh.us/pic/current.html>.

District Office and Local Air Agency Addresses and Phone Numbers

See the following pages.

Air Permit Review Agencies

Division of Air Pollution Control
Ohio EPA, Central Office
(614) 644-2270
www.epa.state.oh.us/dapc/general/dolaa.html



This map shows jurisdictional boundaries.
Shaded areas represent local agencies within Ohio EPA districts.

OhioEPA

District Offices

CDO Adam Ward, APC Manager

01 Central District Office
50 West Town Street, Suite 700
Columbus, OH 43215
(614) 728-3778 FAX (614) 728-3898
e-mail: adam.ward@epa.state.oh.us

SEDO Bruce Weinberg, APC Manager

06 Southeast District Office
2195 Front St.
Logan, OH 43138
(740) 385-8501 FAX (740) 385-6490
e-mail: bruce.weinberg@epa.state.oh.us

NEDO Dennis Bush, APC Manager

02 Northeast District Office
2110 E. Aurora Rd.
Twinsburg, OH 44087
(330) 425-9171 FAX (330) 487-0769
e-mail: dennis.bush@epa.state.oh.us

NWDO Mark Budge, APC Manager

03 Northwest District Office
347 North Dunbridge Rd.
Bowling Green, OH 43402
(419) 352-8461 FAX (419) 352-8468
e-mail: mark.budge@epa.state.oh.us

SWDO Tom Schneider, APC Manager

05 Southwest District Office
401 E. Fifth St.
Dayton, OH 45402-2911
(937) 285-6357 FAX (937) 285-6249
e-mail: tom.schneider@epa.state.oh.us



Frank Markunas, Interim Administrator
Akron Regional Air Quality
Management District
146 South High St, Room 904
Akron, Ohio 44308
(330) 375-2480 FAX (330) 375-2402
e-mail: markufr@ci.akron.oh.us



Richard L. Nemeth, Commissioner
Cleveland Dept. of Public Health
Division of Air Quality
75 Erieview Plaza, 2nd Floor
Cleveland, Ohio 44114
(216) 664-2297 FAX (216) 420-8047
e-mail: Rnemeth@city.cleveland.oh.us



Cindy Charles, Director
Portsmouth Local Air Agency
605 Washington St., Third Floor
Portsmouth, Ohio 45662
(740) 353-5156 FAX (740) 353-3638
e-mail: cindy.charles@epa.state.oh.us



Dan Aleman, Administrator
Air Pollution Control Division
Canton City Health Dept.
420 Market Ave. North
Canton, Ohio 44702-1544
(330) 489-3385 FAX (330) 489-3335
e-mail: daleman@cantonhealth.org



John Paul, Administrator
Regional Air Pollution Control Agency
Public Health Dayton and Montgomery Cnty.
117 South Main St.
Dayton, Ohio 45422-1280
(937) 225-4435 FAX (937) 225-3486
e-mail: paulja@rapca.org



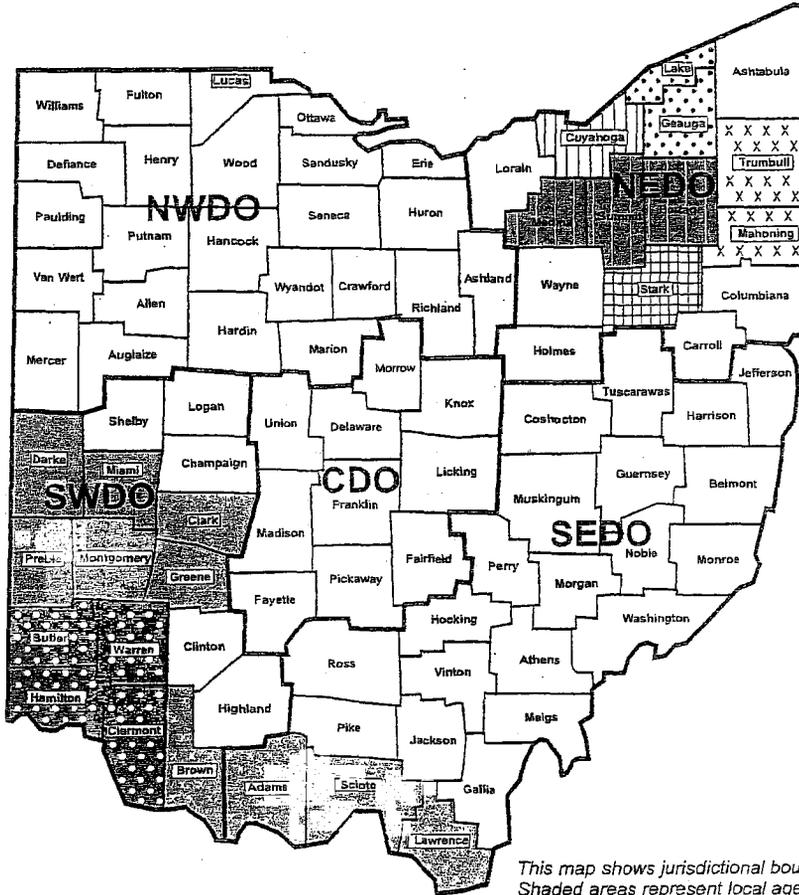
Karen Granata, Administrator
City of Toledo
Division of Environmental Services
348 South Erie Street
Toledo, Ohio 43604
(419) 936-3015 FAX (419) 936-3959
e-mail: karen.granata@toledo.oh.gov



Cory R. Chadwick, Director
Dept. of Environmental Services
Air Quality Programs
250 William Howard Taft Road
Cincinnati, Ohio 45219-2660
(513) 946-7777 FAX (513) 946-7778
e-mail: cory.chadwick@hamilton-co.org

Local Air Pollution Control Agencies

Division of Air Pollution Control
Ohio EPA, Central Office
(614) 644-2270
www.epa.state.oh.us/dapc/general/dolaa.html



This map shows jurisdictional boundaries.
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e-mail: markufr@ci.akron.oh.us

 **Richard L. Nemeth, Commissioner**
Cleveland Dept. of Public Health
Division of Air Quality
75 Erieview Plaza, 2nd Floor
Cleveland, Ohio 44114
(216) 664-2297 FAX (216) 420-8047
e-mail: Rnemeth@city.cleveland.oh.us

 **Cindy Charles, Director**
Portsmouth Local Air Agency
605 Washington St., Third Floor
Portsmouth, Ohio 45662
(740) 353-5156 FAX (740) 353-3638
e-mail: cindy.charles@epa.state.oh.us

 **Dan Aleman, Administrator**
Air Pollution Control Division
Canton City Health Dept.
420 Market Ave. North
Canton, Ohio 44702-1544
(330) 489-3385 FAX (330) 489-3335
e-mail: daleman@cantonhealth.org

 **John Paul, Administrator**
Regional Air Pollution Control Agency
Public Health Dayton and Montgomery Cnty.
117 South Main St.
Dayton, Ohio 45422-1280
(937) 225-4435 FAX (937) 225-3486
e-mail: paulja@rapca.org

 **Karen Granata, Administrator**
City of Toledo
Division of Environmental Services
348 South Erie Street
Toledo, Ohio 43604
(419) 936-3015 FAX (419) 936-3959
e-mail: karen.granata@toledo.oh.gov

 **Cory R. Chadwick, Director**
Dept. of Environmental Services
Air Quality Programs
250 William Howard Taft Road
Cincinnati, Ohio 45219-2660
(513) 946-7777 FAX (513) 946-7778
e-mail: cory.chadwick@hamilton-co.org

 **Bert Mechenbier, Supervisor ***
Lake County General Health District
Air Pollution Control
33 Mill Street
Painesville, Ohio 44077
(440) 350-2543 FAX (440) 350-2548
e-mail: BMechenbier@lchgd.org

 **Misty Koletich, Administrator ***
Mahoning-Trumbull APC Agency
345 Oak Hill Ave., Suite 200
Youngstown, Ohio 44502
(330) 743-3333 FAX (330) 744-1928
e-mail: mtapca@cboss.com

*Facilities located within these jurisdictions should file air permit applications with Ohio EPA's Northeast District Office (NEDO).

General Guidelines for Ohio EPA's Program for the Retrofitting of School Buses with Control Equipment to Reduce Diesel Particulate Emissions

The following questions and answers explain the Ohio EPA's program for the retrofitting of school buses with diesel particulate filters and crankcase filters and provide the general guidelines that must be followed by any school system that participates in the program.

1. Why is there a need to reduce diesel particulate emissions from school buses?

The exhaust gases from diesel, school bus engines contain significant amounts of organic compounds, carbon monoxide, nitrogen oxides (NO_x) and fine particulates. If inhaled, the fine particulates are so small that they are able to penetrate deep into the lungs and pose serious health risks such as aggravated asthma and lung damage. In addition, USEPA has identified diesel exhaust as a likely human carcinogen. These fine particulate emissions contribute to the poor ambient air quality in 27 counties in Ohio, which currently are not meeting the national health-based ambient air quality standards for fine particulates (i.e., PM 2.5, particles less than 2.5 microns in diameter). Reducing the particulate emissions from diesel school bus engines will have two primary benefits:

- a. For the children who ride buses, it will reduce their exposure to the harmful diesel exhaust emissions. Children are more susceptible to air pollution than healthy adults because their respiratory systems are still developing and they have a faster breathing rate.
- b. It will help in attaining the National Ambient Air Quality Standards for PM 2.5 in Ohio's nonattainment counties.

2. What retrofit options are available to reduce particulate emissions from school buses?

There are three primary ways to retrofit a school bus for particulate emission control:

- a. **Diesel particulate filters** are ceramic devices that collect particulate matter in the exhaust stream. The high temperature of the exhaust heats the ceramic structure and allows the particles inside to break down into less harmful components. These filters must be used in conjunction with ultra-low sulfur diesel ("ULSD") fuel, which is a fuel with a sulfur content of less than 15 parts per million. The combination of particulate filters and ULSD fuel can reduce emissions of particulates, organic compounds, and carbon monoxide in the exhaust gases by 60 to 90 percent. Particulate filters work best on engines built after 1994 and cost \$6,500 to \$7,500.

they will be added to the list. Field experience indicates it takes six to eight hours to install one of these diesel particulate filters. Crankcase filters are relatively simple to install and are easily serviced.

5. How efficient are the diesel particulate filters and crankcase filters in reducing the particulate emissions?

The diesel particulate filters will reduce the particulate emissions in the exhaust gases by 60 to 90 percent. These control devices also will reduce the emissions of organic compounds and carbon monoxide by 60 to 90 percent. Most particulate filters come with a 100,000 to 150,000-mile warranty and have a useful life of seven to 15 years. The filtration efficiency of crankcase filters averages between 80% and 97%.

6. Is there a special type of fuel that must be used with the diesel particulate filters?

Yes. Each bus equipped with a particulate filter must use ultra low sulfur diesel (ULSD) fuel. Because of the high sulfur content of regular diesel fuel, the use of regular diesel fuel would cause the particulate filter to clog. This, in turn, could cause exhaust back-pressure increases and engine damage. The ULSD fuel contains less than 10% of the sulfur content of regular diesel fuel. Regular diesel fuel may contain 150 to 500 ppm of sulfur, compared to the maximum of 15 ppm for the ULSD fuel. As a result of recent changes in the U.S. federal fuel standards, ULSD fuel will become the standard diesel fuel throughout the U.S. beginning in June of 2006. Many parts of the country, including certain parts of Ohio, are already being supplied with ULSD fuel. The price differential between ULSD fuel and regular diesel fuel currently ranges between eight and 25 cents per gallon. In 2006, when ULSD fuel is available nationwide, the cost differential should be much less.

7. What costs are associated with the installation and operation of the diesel particulate filters and crankcase filters?

The estimated cost to retrofit each bus with a diesel particulate filter ranges from \$6,500 to \$7,500. On an annual basis, or about every 100,000 miles, these filters must be disassembled and cleaned either with compressed air or by heating the filter in a filter cleaning device. (The cost of such a device ranges from \$300 to \$350.) The cost for the annual maintenance for each filter, which normally takes less than 3 hours to complete, will depend upon whether the work is performed by school district personnel, the engine dealer, or the filter vendor. Also, until ULSD fuel becomes available nationwide in June of 2006, there will be an increased cost for the diesel fuel burned in each retrofitted bus. The current price differential between ULSD fuel and regular diesel fuel varies between 8 and 25 cents per gallon. Crankcase filters are fairly inexpensive (a replacement element typically costs less than \$50.00). Crankcase filters must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first.

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Flying J, Inc.	:	<u>Director's Final Findings</u>
1104 Country Hills Drive	:	<u>and Orders</u>
Ogden, Utah 84403-2400	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Flying J, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a gasoline dispensing facility ("GDF") known as Flying J Truck Stop located at 2349 Center Road, in Austinburg (Ashtabula County), Ohio (Ohio EPA ID number 0204000444.) This GDF is subject to the requirements of Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD) concerning Stage II vapor control systems.

2. On February 2, 2002, Permit-to-Install #02-15824 was issued by Ohio EPA to Respondent for this GDF. On December 18, 2007, Respondent was issued a Permit-by-Rule ("PBR") requiring compliance with the requirements for Stage II vapor control systems as specified in OAC Rule 3745-21-09(DDD).

3. ORC § 3704.05(G) states, in part, that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704. OAC Rule 3745-21-09(DDD) was adopted by the Director pursuant to ORC Chapter 3704.

4. OAC Rule 3745-21-09(DDD)(1)(b) states, in part, that no owner or operator of a GDF may cause, allow, or permit the transfer of gasoline from a stationary tank at a GDF into a motor vehicle unless a vapor control system is installed, operated, and maintained in accordance with the manufacturer's specifications and the applicable California Air Resources Board ("CARB") certification, and is free from defect.

5. OAC Rule 3745-21-09(DDD)(1)(c) states, in part, that no owner or operator of a GDF may cause, allow, or permit the transfer of gasoline from a stationary tank at a GDF into a motor vehicle unless the vapor control system successfully passes the testing requirements contained in OAC Rule 3745-21-09(DDD)(2).

6. OAC Rule 3745-21-09(DDD)(2)(f) requires the owner or operator of a GDF to perform and comply with any vapor control system tests specified in the applicable CARB certification. As part of the required CARB testing for the above-mentioned GDF, an air-to-liquid ("A/L") ratio test and a static leak test are required to be performed annually and any fueling point not capable of demonstrating compliance with the performance standards of the A/L ratio test is deemed to be defective and is required to be removed from service.

7. On August 7, 2007, Ohio EPA conducted an inspection at this GDF to determine compliance with the Stage II annual static leak and A/L ratio tests. The static leak and A/L ratio tests both failed at the time of this inspection. Respondent was transferring gasoline into motor vehicles prior to and after the failed static leak and A/L ratio tests. The failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle is a violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c). By letter dated August 27, 2007, Ohio EPA notified Respondent of these violations and requested that repairs be made and a retest conducted within 30 days of receipt of the letter. On December 11, 2007, Respondent conducted a retest and passed both the static leak and A/L ratio tests. By letter dated February 13, 2008, Ohio EPA sent Respondent a return to compliance letter.

8. On August 19, 2008, Respondent conducted the annual static leak and A/L ratio tests at this GDF. The static leak test failed due to a leaking drop tube and leaking vacuum pump motor and the A/L ratio test failed for dispenser #7 due to the vacuum pump not working on the dispenser. Respondent was transferring gasoline into

motor vehicles prior to and after the failed static leak and A/L ratio tests. The failure to properly operate and maintain the vapor control system and the failure to successfully pass the testing requirements contained in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle are violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c).

9. By letter dated July 1, 2009, Ohio EPA notified Respondent that it had not conducted and passed static leak and A/L ratio retests since the August 19, 2008 failures, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c). In addition, the failure to complete and successfully pass the annual static leak and A/L ratio tests within one year from the last test (December 11, 2007) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle are violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c). In this letter, Ohio EPA requested that testing be completed within 30 days of receipt of the letter.

10. On July 14, 2009, Respondent conducted and passed the static leak and A/L ratio tests at this GDF.

11. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Within thirty (30) days after the effective date of these Orders, Respondent shall demonstrate that the Stage II vapor control system is operating correctly by conducting and passing static leak, A/L ratio, and dynamic pressure performance tests. Respondent shall notify Ohio EPA of such testing within fourteen (14) days prior to any test. The results of these tests shall be submitted to Ohio EPA within fourteen (14) days after completion of the tests.

2. For the next two ozone seasons (April 1, 2010 – October 31, 2010 and April 1, 2011 – October 31, 2011), starting two weeks prior to the start of the ozone season, i.e., by March 15, 2010 and March 15, 2011, and continuing until October 31, 2010 and October 31, 2011, respectively, Respondent shall conduct weekly inspections of the Stage II vapor control system, checking for leaks, malfunctions or other damage to the system and shall keep records of these inspections and any repairs made. The inspections shall be recorded in an inspection log or checklist. Copies of the inspection logs or checklists shall be submitted to Ohio EPA during the middle and at the end of each ozone season. Specifically, copies of the weekly inspection records for the period from March 15 through July 31 shall be submitted by August 14 of that year. Copies of

the weekly inspection records for August 1 through October 31 shall be submitted by November 14 of that year.

3. For the next two ozone-producing seasons (i.e., April 1, 2010 – October 31, 2010 and April 1, 2011 – October 31, 2011), Respondent shall perform static leak and A/L ratio tests prior to the beginning (during March) of each ozone season and during August of each ozone season. Respondent shall notify Ohio EPA of such testing within fourteen (14) days prior to any test. The results of these tests shall be submitted to Ohio EPA within fourteen (14) days after completion of the tests.

4. Respondent shall pay the amount of twenty-nine six hundred and fifty thousand dollars (\$29,650) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within fourteen (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for twenty-three thousand seven hundred and twenty dollars (\$23,720) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

5. In lieu of paying the remaining five thousand nine hundred and thirty dollars (\$5,930) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$5,930 to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment on or within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$5,930. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

6. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

7. Should Respondent fail to fund the SEP within the required time frame set forth in Order 5, Respondent shall immediately pay to Ohio EPA \$5,930 of the civil penalty in accordance with the procedures in Order 4.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For the purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice president or his duly authorized representative.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's facilities.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio EPA, Northeast District Office
2110 East Aurora Rd.
Twinsburg, Ohio 44087
Attn: Tim Fischer

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
50 West Town Street, Suite 700
Columbus, Ohio 43216-1049
Attn: Tom Kalman

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges, and causes of action except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation, or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date

IT IS SO AGREED:

Flying J, Inc.

Signature

Date

Printed or Typed Name

Title

GDF PENALTY WORK SHEET
 Flying J, Inc.
 2349 Center Road, Austinburg, Ohio
 (for settlement purposes only)

A. Benefit Component:		\$0	Economic benefit is negligible (i.e., less than \$5,000).
B. Gravity Component:			
1. Testing violations- Consecutive test failures:	\$5,000		On 8/7/07 and 8/19/08, Respondent failed the 2007 and 2008 annual static leak and A/L ratio tests. Respondent was operating the dispensers prior to and after each failed A/L ratio test. Operating the vapor control system with malfunctions and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle are violations of ORC § 3704.05(G) and OAC Rules 3745-21-09(DDD)(1). Per the GDF penalty policy, when a facility fails any test in two consecutive years, the penalty is \$5,000.
2. Length of violation: a.	\$2,375		On 8/7/07, Respondent failed the static leak and A/L ratio tests and continued to dispense gasoline until the vapor control system was repaired and successfully passed a static leak and A/L ratio retests on 12/11/07. The failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle are violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c). Per GDF penalty policy, 30 days are given to fix the problems and retest. Any additional days beyond the initial 30 days are penalized \$25 per day. So, 9/7/07 until 12/11/07 (95 days). 95 days x \$25 per day = \$2,375.

b.	\$7,450		On 8/19/08, Respondent failed the static leak test due to a leaking drop tube and leaking vacuum pump motor and the A/L ratio test failed for dispenser #7 due to the vacuum pump not working on the dispenser. The failure to properly operate and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle and the failure to perform and successfully pass the annual static leak test and A/L ratio test within 12 months of the last test (12/11/07), are violations of ORC § 3704.05(G) and OAC Rules 3745-21-09(DDD)(1)(b) and (c). On July 14, 2009, Respondent conducted and passed the static leak and A/L ratio retest. Per GDF penalty policy, 30 days are given to fix the problems and retest. Any additional days beyond the initial 30 days are penalized \$25 per day. So, 9/19/08 until 7/14/09, 298 days. 298 days x \$25 per day = \$7,450.
3. Size of violator:	\$14,825		Net worth (about \$1,890,000,000) is estimated at 20% of annual sales (annual sales are over \$9,450,000,000 from Reference USA database). Penalty associated with this amount would be \$7,870,000. The size of violator is set at 50% of the preliminary deterrence amount because the size of violator penalty is over 50% of the preliminary deterrence amount (\$14,825).
Preliminary Deterrence Amount:		\$29,650	
Initial Gravity Component:		\$29,650	
C. Adjustment Factors:	\$0		Not applicable
1. Degree of willfulness or negligence: (total gravity component times any augmentation percentage)			
2. Degree of cooperation:	\$0		Not applicable

(total gravity component times any mitigation percentage)			
3. History of noncompliance: (total gravity component times any augmentation percentage)	\$0		Not applicable
4. Ability to pay: (any mitigation amount)	\$0		Not known
5. Other unique factors: (total gravity component times any mitigation or augmentation percentage)	\$0		Not applicable
D. Adjusted Gravity Component:		\$29,650	
E. Administrative Component:			Not applicable
F. Initial Settlement Amount:		\$29,650	



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

SEP 29 2009

CERTIFIED MAIL

Mr. Anthony Ruggiero, III
Environmental Permitting and Compliance
Mar-Zane, Inc.
3570 South River Road
P.O. Box 1585
Zanesville, Ohio 43701

Re: Proposed Director's Final Findings and Orders for violations of Ohio EPA's air pollution control requirements

Dear Mr. Ruggiero:

My staff has informed me of the violations of the Ohio Administrative Code ("OAC") that occurred as a result of Mar-Zane, Inc.'s ("Mar-Zane") operation of its Plant #1 asphalt plant located at 2408 Section Line Road, in Delaware, Delaware County, Ohio.

Specifically, results from emissions testing for volatile organic compounds ("VOCs") Mar-Zane conducted on the 325 TPH double drum-mix asphalt plant (emissions unit P001) on October 16, 2006, June 16, 2008, and August 13, 2008, all showed emissions greater than 14.3 pounds per hour of VOCs, in violation of Part II, Section A., paragraph 1. of PTI 01-12005 and ORC § 3704.05(C). In addition, Mar-Zane began burning used oil containing greater than 1,000 PPM halogens in emissions unit P001 without having first contacting the Ohio EPA Division of Hazardous Waste Management, in violation of Part II, Section B., paragraph 2.c. of PTI 01-08778 and ORC § 3704.05(C). Mar-Zane also did not submit a Permit to Operate ("PTO") application within 90 days of commencing operation of emissions unit P001, in violation of OAC Rule 3745-35-02(B)(5) and Part I, Section A., paragraph 13. of PTI 01-12005.

Enclosed is a copy of the proposed Findings and Orders prepared by my staff which includes a provision for the settlement of the claim for civil penalties for the violations that occurred. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Because this letter and the attached documents summarize a proposed settlement, I consider them inadmissible for any purpose in any enforcement action the State may take if a settlement cannot be reached.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Please note that the proposed Findings and Orders include provisions for a portion of the total civil penalty amount to go toward the funding of two supplemental environmentally beneficial projects. These provisions are being included in Findings and Orders used to resolve violations of Ohio's air pollution control regulations.

The first project involves diverting 20 percent of the total civil penalty amount towards funding an Ohio EPA program for the retrofitting of school buses with control equipment to reduce diesel particulate emissions. This project has the primary benefits of reducing children's exposure to harmful diesel exhaust emissions and helping attain the National Ambient Air Quality Standards for fine particulates (i.e., particles less than 2.5 microns in diameter). Information concerning the school bus retrofit program is provided in an enclosed document.

The second project involves diverting a portion of the total civil penalty amount toward performing a pollution prevention study of the facility to assess the feasibility of specific source emission reduction and environmentally sound recycling projects. Pollution prevention studies can lead not only to the reduction of pollution at its source, but also to substantial cost-savings for the facility.

A copy of the manual referenced in the proposed Findings and Orders concerning the pollution prevention study may be obtained by calling Ohio EPA's Office of Pollution Prevention ("OPP") at (614) 644-3469. Also, the manual is available electronically from the OPP's website at www.epa.state.oh.us/opp/guide/p2pbgn.html.

Please review the attached documents carefully. If you have any questions concerning the proposed Findings and Orders, or if you would like to arrange a meeting to discuss them, please contact Marc Glasgow, Ohio EPA Staff Attorney, at (614) 644-3037. If he does not hear from you within fourteen (14) days of the receipt of this letter concerning your willingness to accept the Findings and Orders as currently written, or with mutually agreed upon modifications, I will consider alternative enforcement mechanisms including referral of the violations to the Ohio Attorney General's Office for legal action.

Enclosed is a copy of guidance on the administrative enforcement process, which you may find helpful in answering any questions on Ohio EPA's enforcement process.

Your prompt attention to this matter will be appreciated.

Sincerely,



Chris Korleski
Director

CK/JP/jp

Mar-Zane, Inc.
Page 3 of 3

xc: Jim Orlemann, DAPC
John Paulian, DAPC
Marc Glasgow, Legal Office
Todd Scarborough, CDO
Kelly Toth, CDO
Adam Ward, CDO

Enclosures

General Guidelines for Ohio EPA's Program for the Retrofitting of School Buses with Control Equipment to Reduce Diesel Particulate Emissions

The following questions and answers explain the Ohio EPA's program for the retrofitting of school buses with diesel particulate filters and crankcase filters and provide the general guidelines that must be followed by any school system that participates in the program.

1. Why is there a need to reduce diesel particulate emissions from school buses?

The exhaust gases from diesel, school bus engines contain significant amounts of organic compounds, carbon monoxide, nitrogen oxides (NO_x) and fine particulates. If inhaled, the fine particulates are so small that they are able to penetrate deep into the lungs and pose serious health risks such as aggravated asthma and lung damage. In addition, USEPA has identified diesel exhaust as a likely human carcinogen. These fine particulate emissions contribute to the poor ambient air quality in 27 counties in Ohio, which currently are not meeting the national health-based ambient air quality standards for fine particulates (i.e., PM 2.5, particles less than 2.5 microns in diameter). Reducing the particulate emissions from diesel school bus engines will have two primary benefits:

- a. For the children who ride buses, it will reduce their exposure to the harmful diesel exhaust emissions. Children are more susceptible to air pollution than healthy adults because their respiratory systems are still developing and they have a faster breathing rate.
- b. It will help in attaining the National Ambient Air Quality Standards for PM 2.5 in Ohio's nonattainment counties.

2. What retrofit options are available to reduce particulate emissions from school buses?

There are three primary ways to retrofit a school bus for particulate emission control:

- a. **Diesel particulate filters** are ceramic devices that collect particulate matter in the exhaust stream. The high temperature of the exhaust heats the ceramic structure and allows the particles inside to break down into less harmful components. These filters must be used in conjunction with ultra-low sulfur diesel ("ULSD") fuel, which is a fuel with a sulfur content of less than 15 parts per million. The combination of particulate filters and ULSD fuel can reduce emissions of particulates, organic compounds, and carbon monoxide in the exhaust gases by 60 to 90 percent. Particulate filters work best on engines built after 1994 and cost \$6,500 to \$7,500.

- b. **Crankcase filtration systems** allow a diesel engine's crankcase to be closed and use an air filter to trap blow-by aerosols consisting mainly of oil droplets, with some carbon and traces of wear debris and PM10. Blow-by gas emissions can be as much as 25% of the total emissions from a diesel engine. The crankcase filter must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first. Crankcase filters are inexpensive (a replacement element typically costs less than \$50.00) and are best used in conjunction with some type of filtration system in the exhaust stream.
- c. **Diesel oxidation catalysts** are devices that use a chemical process to break down pollutants in the exhaust stream into less harmful components. Diesel oxidation catalysts can reduce emissions of particulates by 20 percent, hydrocarbons by 50 percent, and carbon monoxide by 40 percent. Oxidation catalysts cost \$600 to \$2,000 and can be used with regular diesel fuel.

Based on the comparative effectiveness of the three types of particulate emission controls, only particulate filters and crankcase filters will be considered for this retrofit program.

3. Which types of school buses will be eligible to be retrofitted with particulate emission controls?

Only school buses that meet the following criteria should be retrofitted with particulate emission controls:

- a. The school bus must be equipped with a diesel engine.
- b. The school bus must have a gross vehicle rating of 19,500 pounds or more (Types C & D).
- c. The school bus must be in operation at least 4 days per week during the school year and travel at least 10,000 miles per year.
- d. The school bus model year must be 1994 or newer.

4. Which types of diesel particulate filters and crankcase filters would be acceptable for installation?

The USEPA has published a list of "Verified Retrofit Technologies." A copy of this list can be accessed at the following website:

<http://www.epa.gov/otag/retrofit/retroverifiedlist.htm>.

Only the particulate filters and crankcase filters on this list may be purchased and installed. As additional technologies are found to be acceptable by the USEPA,

they will be added to the list. Field experience indicates it takes six to eight hours to install one of these diesel particulate filters. Crankcase filters are relatively simple to install and are easily serviced.

5. How efficient are the diesel particulate filters and crankcase filters in reducing the particulate emissions?

The diesel particulate filters will reduce the particulate emissions in the exhaust gases by 60 to 90 percent. These control devices also will reduce the emissions of organic compounds and carbon monoxide by 60 to 90 percent. Most particulate filters come with a 100,000 to 150,000-mile warranty and have a useful life of seven to 15 years. The filtration efficiency of crankcase filters averages between 80% and 97%.

6. Is there a special type of fuel that must be used with the diesel particulate filters?

Yes. Each bus equipped with a particulate filter must use ultra low sulfur diesel (ULSD) fuel. Because of the high sulfur content of regular diesel fuel, the use of regular diesel fuel would cause the particulate filter to clog. This, in turn, could cause exhaust back-pressure increases and engine damage. The ULSD fuel contains less than 10% of the sulfur content of regular diesel fuel. Regular diesel fuel may contain 150 to 500 ppm of sulfur, compared to the maximum of 15 ppm for the ULSD fuel. As a result of recent changes in the U.S. federal fuel standards, ULSD fuel will become the standard diesel fuel throughout the U.S. beginning in June of 2006. Many parts of the country, including certain parts of Ohio, are already being supplied with ULSD fuel. The price differential between ULSD fuel and regular diesel fuel currently ranges between eight and 25 cents per gallon. In 2006, when ULSD fuel is available nationwide, the cost differential should be much less.

7. What costs are associated with the installation and operation of the diesel particulate filters and crankcase filters?

The estimated cost to retrofit each bus with a diesel particulate filter ranges from \$6,500 to \$7,500. On an annual basis, or about every 100,000 miles, these filters must be disassembled and cleaned either with compressed air or by heating the filter in a filter cleaning device. (The cost of such a device ranges from \$300 to \$350.) The cost for the annual maintenance for each filter, which normally takes less than 3 hours to complete, will depend upon whether the work is performed by school district personnel, the engine dealer, or the filter vendor. Also, until ULSD fuel becomes available nationwide in June of 2006, there will be an increased cost for the diesel fuel burned in each retrofitted bus. The current price differential between ULSD fuel and regular diesel fuel varies between 8 and 25 cents per gallon. Crankcase filters are fairly inexpensive (a replacement element typically costs less than \$50.00). Crankcase filters must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first.

8. How will the control devices be funded by the Ohio EPA?

Ohio EPA enforcement case settlements will be the source of the funding for the diesel particulate filters and crankcase filters. Each enforcement case resolved either through administrative Findings and Orders or a Consent Order, that contains a significant civil penalty (a total civil penalty assessment greater than \$5,000), will also include a Supplemental Environmental Project (SEP) that is equal in value to 20 percent of the total assessed civil penalty. The entity that is the subject of the enforcement case will be required to pay the SEP monies directly to a specific fund that Ohio EPA will establish for the retrofitting of school buses.

9. How will the school systems receive the SEP monies for the diesel particulate filters and crankcase filters?

A school system that desires to participate in the retrofit program must apply to Ohio EPA to receive funding to purchase and install the diesel particulate filters and crankcase filters. In the application, an eligible school system (i.e., one located in a nonattainment county for PM 2.5) must describe the proposed project, providing details such as the number and ages of the buses to be retrofitted, the types of filters that will be purchased and installed (must be on the USEPA-published list of "Verified Retrofit Technologies"), a schedule for installation of the filters, and a detailed cost breakdown. Ohio EPA will evaluate each application and provide funding to applicant school systems on a first come-first served basis as monies become available in the retrofit fund. Preference will be given to those applicants that include a commitment to implement an anti-idling program at the applicant's school system. Once or twice per year, the Ohio EPA will solicit applications from the eligible school systems.

10. What oversight will be provided by the Ohio EPA to ensure that the diesel particulate filters are installed and maintained properly?

Ohio EPA will closely track the amount of enforcement monies directed to each public school system. Each participating school system must submit regular progress reports providing information regarding the equipment purchased and installed to date, as well as a final report summarizing the project results. Periodic inspections also may be conducted by District Office or local air agency staff to confirm that the diesel particulate filters and crankcase filters are being installed and maintained properly and that the monies are being spent appropriately.

A guide to the . . .

Administrative Enforcement Process

Within the Division of Air Pollution Control

Introduction

This information sheet has been prepared to help you understand the administrative enforcement process within the Agency. With an understanding of the process and adequate preparation, you can facilitate a prompt resolution of this enforcement action. Included are answers to the questions most frequently asked by parties involved in the administrative enforcement process.

I have been working with the District Office or local air agency inspector to correct the violations. Why is an enforcement action necessary?

The Agency considers the following factors in deciding that an enforcement action is necessary: (1) Ohio EPA needs to obtain civil penalties for your violations; (2) your violations are serious; (3) you have taken too long to address the violations; (4) you need to be on a formal schedule to address the violations; (5) you have been recalcitrant in addressing the violations; and/or (6) you are a chronic violator.

Why should I try to negotiate an administrative consent order with Ohio EPA?

- Negotiating administrative findings and orders ("Order") with the Ohio EPA avoids expensive and time-consuming litigation.
- Negotiation can be a swift resolution of the State's claims against you for the non-compliance.
- We can quickly identify any obstacle to agreement.
- Negotiation can minimize or prevent any intervention by the USEPA to address the violations.

Should I continue working with the District or local air agency inspector?

Yes, the District Office or local air agency inspector is the best person to work with you to resolve the technical aspects of the violations, and prepare an acceptable control plan and schedule for submission to the Agency. Central Office personnel will also be available to provide assistance.

What should I do now that I received the proposed administrative consent order?

You should review the enclosed Order and the summary of the penalty calculation. If you accept the enclosed Order as written, sign the Order and send it within two weeks to the staff attorney referenced in the Director's letter. If you cannot accept the Order as written, the Agency would like to meet with you to discuss your concerns. Please contact the designated staff attorney at (614) 644-3037 to arrange a meeting.

If I want to have a meeting, what should I do to prepare for it?

Generally, the most productive meetings occur when both parties come prepared to discuss all issues. The Order and correspondence from the District Office or local air agency inspector contain the Agency's position. Since you were not willing to agree to the Order as written, we need to know whether you: (1) disagree with the facts outlined in the Order; (2) are not able or willing to comply with the Order; or (3) have information you feel may mitigate the civil penalty settlement amount. Send the staff attorney a written summary of your issues within two weeks from the date of the Director's letter. Additionally, if you believe you are financially unable to pay the penalty, contact the staff attorney for a list of information we need to evaluate your ability to pay.

What will happen at the meeting?

During the meeting, we will respond to any information you have provided. We are willing to work with you to arrive at mutually agreed upon modifications to the Order. Except in the most complex cases, our goal is to complete all negotiations at the meeting. If we cannot agree at the meeting and we feel we are making adequate progress, we will hold our offer of settlement open. Thereafter, if resolution of the negotiations is not achieved within the time frame agreed to by the parties at the settlement meeting or if we feel we are not making adequate progress, the offer of settlement may be withdrawn, and we may consider other enforcement alternatives, including a referral to the Office of the Attorney General.

Why do I have to pay a civil penalty?

A civil penalty is necessary to deter future violations and to remove any economic advantage you may have realized from not complying with Ohio's regulations. Instead of a full cash payment, the Agency may be willing to accept a supplemental environmentally beneficial project ("SEP"), that meets certain guidelines.

How did the DAPC arrive at the civil penalty settlement amount?

Ohio EPA relied on U.S. EPA's Air Civil Penalty Policy to calculate the penalty. The DAPC uses this Policy to ensure that we calculate penalties fairly and consistently and that the penalty is appropriate for the gravity of the violations. Enclosed is a summary of the DAPC's civil penalty settlement calculation. If you want a copy of the U.S. EPA's Air Civil Penalty Policy, contact the designated staff attorney at (614) 644-3037.

Who from Ohio EPA will be at the meeting?

Everyone necessary to resolve the matter will be at the meeting or available during the meeting to provide settlement authority. This includes the staff attorney, the District Office or local air agency inspector, and Central Office technical personnel.

Who should I bring to the meeting?

Similarly, you should bring anyone familiar with the issues as well as anyone who has the authority to settle this matter. You are welcome to be represented at this meeting by your attorney and your consultant.

News releases

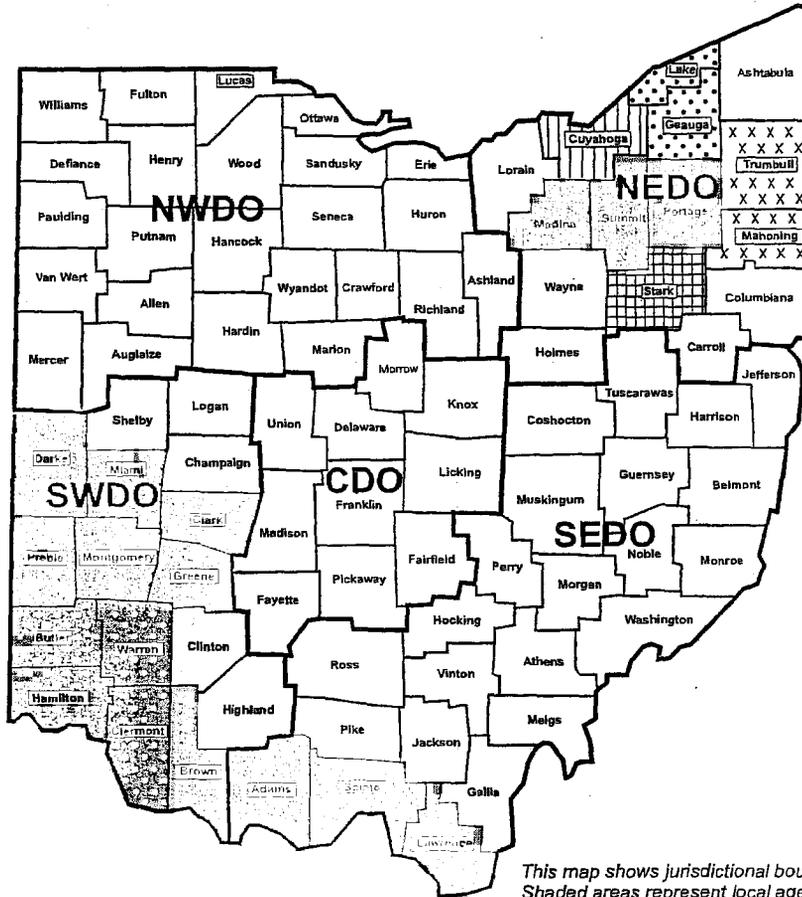
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about our enforcement efforts. Ohio EPA's news release represents our position, and so we do not negotiate the language in the news release with you. If we prepare a news release, you will receive a courtesy copy shortly before it is released to the media and posted on our web site. You can read all of our news releases at: <http://www.epa.state.oh.us/pic/current.html>.

District Office and Local Air Agency Addresses and Phone Numbers

See the following pages.

Local Air Pollution Control Agencies

Division of Air Pollution Control
Ohio EPA, Central Office
(614) 644-2270
www.epa.state.oh.us/dapc/general/dolaa.html



This map shows jurisdictional boundaries.
Shaded areas represent local agencies within Ohio EPA districts.



District Offices

CDO Adam Ward, APC Manager
01 Central District Office
50 West Town Street, Suite 700
Columbus, OH 43215
(614) 728-3778 FAX (614) 728-3898
e-mail: adam.ward@epa.state.oh.us

SEDO Bruce Weinberg, APC Manager
06 Southeast District Office
2195 Front St.
Logan, OH 43138
(740) 385-8501 FAX (740) 385-6490
e-mail: bruce.weinberg@epa.state.oh.us

NEDO Dennis Bush, APC Manager
02 Northeast District Office
2110 E. Aurora Rd.
Twinsburg, OH 44087
(330) 425-9171 FAX (330) 487-0769
e-mail: dennis.bush@epa.state.oh.us

NWDO Mark Budge, APC Manager
03 Northwest District Office
347 North Dunbridge Rd.
Bowling Green, OH 43402
(419) 352-8461 FAX (419) 352-8468
e-mail: mark.budge@epa.state.oh.us

SWDO Tom Schneider, APC Manager
05 Southwest District Office
401 E. Fifth St.
Dayton, OH 45402-2911
(937) 285-6357 FAX (937) 285-6249
e-mail: tom.schneider@epa.state.oh.us

 **Lynn Malcolm, Administrator**
Akron Regional Air Quality
Management District
146 South High St. Room 904
Akron, Ohio 44308
(330) 375-2480 FAX (330) 375-2402
e-mail: Malcoly@c.akron.oh.us

 **Richard L. Nemeth, Commissioner**
Cleveland Dept. of Public Health
Division of Air Quality
Penton Media Building, 4th Floor
1300 East 9th St.
Cleveland, Ohio 44114
(216) 664-2297 FAX (216) 420-8047
e-mail: Rnemeth@city.cleveland.oh.us

 **Cindy Charles, Director**
Portsmouth Local Air Agency
605 Washington St., Third Floor
Portsmouth, Ohio 45662
(740) 353-5156 FAX (740) 353-3638
e-mail: cindy.charles@epa.state.oh.us

 **Dan Aleman, Administrator**
Air Pollution Control Division
Canton City Health Dept.
420 Market Ave. North
Canton, Ohio 44702-1544
(330) 489-3385 FAX (330) 489-3335
e-mail: daleman@cantonhealth.org

 **John Paul, Administrator**
Regional Air Pollution Control Agency
Montgomery County Health Dept.
117 South Main St.
Dayton, Ohio 45422-1280
(937) 225-4435 FAX (937) 225-3486
e-mail: paulja@rapca.org

 **Karen Granata, Administrator**
City of Toledo
Division of Environmental Services
348 South Erie Street
Toledo, Ohio 43604
(419) 936-3015 FAX (419) 936-3959
e-mail: karen.granata@toledo.oh.gov

 **Cory R. Chadwick, Director**
Dept. of Environmental Services
Air Quality Programs
250 William Howard Taft Road
Cincinnati, Ohio 45219-2660
(513) 946-7777 FAX (513) 946-7778
e-mail: cory.chadwick@hamilton-co.org

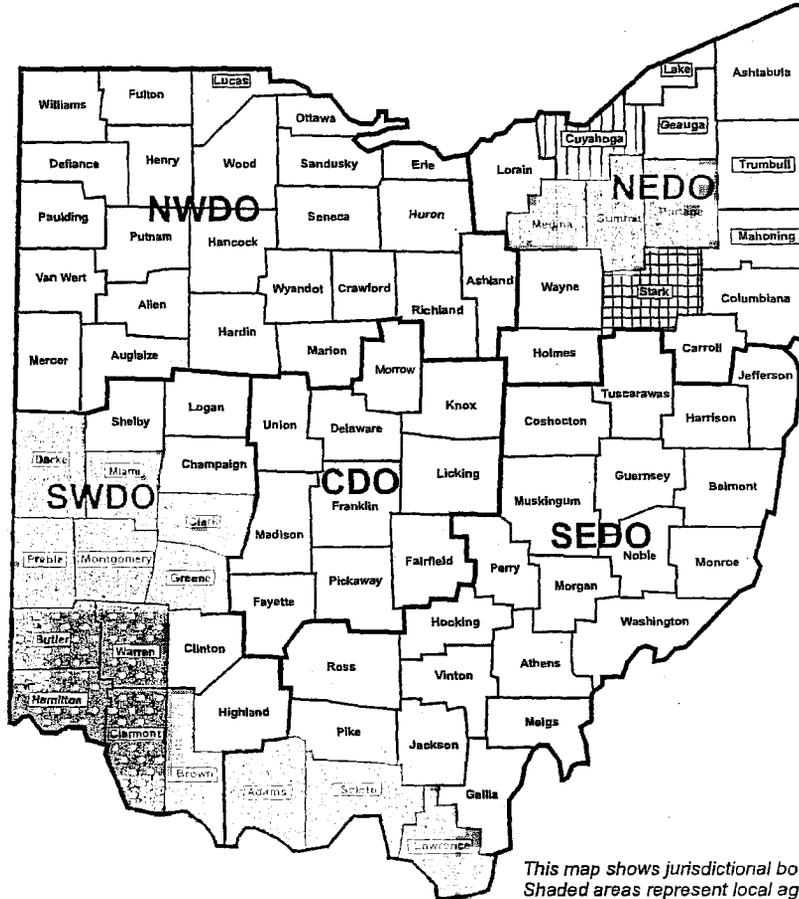
 **Bert Mechenbier, Supervisor ***
Lake County General Health District
Air Pollution Control
33 Mill Street
Painesville, Ohio 44077
(440) 350-2543 FAX (440) 350-2548
e-mail: BMechenbier@lcghd.org

 **Misty Koletich, Supervisor ***
Mahoning-Trumbull APC Agency
345 Oak Hill Ave., Suite 200
Youngstown, Ohio 44502
(330) 743-3333 FAX (330) 744-1928
e-mail: mtapca@cboss.com

*Facilities located within these jurisdictions should file air permit applications with Ohio EPA's Northeast District Office (NEDO).

Air Permit Review Agencies

Division of Air Pollution Control
Ohio EPA, Central Office
(614) 644-2270
www.epa.state.oh.us/dapc/general/dolaa.html



This map shows jurisdictional boundaries.
Shaded areas represent local agencies within Ohio EPA districts.



District Offices

CDO Adam Ward, APC Manager
01 Central District Office
50 West Town Street, Suite 700
Columbus, OH 43215
(614) 728-3778 FAX (614) 728-3898
e-mail: adam.ward@epa.state.oh.us

SEDO Bruce Weinberg, APC Manager
06 Southeast District Office
2195 Front St.
Logan, OH 43138
(740) 385-8501 FAX (740) 385-6490
e-mail: bruce.weinberg@epa.state.oh.us

NEDO Dennis Bush, APC Manager
02 Northeast District Office
2110 E. Aurora Rd.
Twinsburg, OH 44087
(330) 425-9171 FAX (330) 487-0769
e-mail: dennis.bush@epa.state.oh.us

NWDO Mark Budge, APC Manager
03 Northwest District Office
347 North Dunbridge Rd.
Bowling Green, OH 43402
(419) 352-8461 FAX (419) 352-8468
e-mail: mark.budge@epa.state.oh.us

SWDO Tom Schneider, APC Manager
05 Southwest District Office
401 E. Fifth St.
Dayton, OH 45402-2911
(937) 285-6357 FAX (937) 285-6249
e-mail: tom.schneider@epa.state.oh.us

16 Lynn Malcolm, Administrator
Akron Regional Air Quality
Management District
146 South High St, Room 904
Akron, Ohio 44308
(330) 375-2480 FAX (330) 375-2402
e-mail: Malcoly@ci.akron.oh.us

13 Richard L. Nemeth, Commissioner
Cleveland Dept. of Public Health
Division of Air Quality
Penton Media Building, 4th Floor
1300 East 9th St.
Cleveland, Ohio 44114
(216) 664-2297 FAX (216) 420-8047
e-mail: Rnemeth@city.cleveland.oh.us

07 Cindy Charles, Director
Portsmouth Local Air Agency
605 Washington St., Third Floor
Portsmouth, Ohio 45662
(740) 353-5156 FAX (740) 353-3638
e-mail: cindy.charles@epa.state.oh.us

15 Dan Aleman, Administrator
Air Pollution Control Division
Canton City Health Dept.
420 Market Ave, North
Canton, Ohio 44702-1544
(330) 489-3385 FAX (330) 489-3335
e-mail: daleman@cantonhealth.org

08 John Paul, Administrator
Regional Air Pollution Control Agency
Montgomery County Health Dept.
117 South Main St.
Dayton, Ohio 45422-1280
(937) 225-4435 FAX (937) 225-3486
e-mail: paulja@rapca.org

04 Karen Granata, Administrator
City of Toledo
Division of Environmental Services
348 South Erie Street
Toledo, Ohio 43604
(419) 936-3015 FAX (419) 936-3959
e-mail: karen.granata@toledo.oh.gov

14 Cory R. Chadwick, Director
Dept. of Environmental Services
Air Quality Programs
250 William Howard Taft Road
Cincinnati, Ohio 45219-2660
(513) 946-7777 FAX (513) 946-7778
e-mail: cory.chadwick@hamilton-co.org

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Mar-Zane, Inc.	:	<u>Director's Final Findings</u>
3570 South River Road	:	<u>and Orders</u>
Zanesville, Ohio 43702	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Mar-Zane, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") § 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates Plant #1 (Ohio EPA facility ID number 0121010197) located at 2408 Section Line Road, in Delaware, Delaware County, Ohio ("Facility"). The Facility was previously owned and operated by the National Lime and Stone Company until purchased by Respondent in 2004. The facility consists of a raw material handling operation and an asphalt plant (emissions unit P001). This emissions unit is an "air contaminant source" as defined in Ohio Administrative Code ("OAC") Rules 3745-15-01(C) and (W).

2. On June 17, 2004, Ohio EPA issued a Permit to Install ("PTI") to National Lime and Stone Company for emissions unit P001 (PTI #01-08778), a 250 TPH asphalt batch plant. The terms and conditions of the PTI allowed Respondent to burn on-spec used oil in emissions unit P001 provided the oil met the specifications listed In Section II,

Special Terms and Conditions, paragraph 2.b. Used oil containing more than 1,000 PPM halogens is presumed to be a hazardous waste per 40 CFR Part 266.40(c) and OAC Chapter 3745-279. Section II, B., Special Terms and Conditions, paragraph 2.c. permitted Respondent to burn used oil containing more than 1,000 PPM (but less than 4,000 PPM) halogens provided that the used oil supplier had demonstrated to the Ohio EPA's Division of Hazardous Waste Management ("DHWM") that the on-spec used oil did not contain hazardous waste.

3. Respondent began burning used oil containing greater than 1,000 PPM in emissions unit P001 on October 26, 2004, and continued using this fuel through at least July 14, 2007. Neither the Respondent or its supplier, Usher Oil, contacted DHWM prior to Respondent's use of this used oil as a fuel at the facility, in violation of Part II, Section B., paragraph 2.c. of PTI 01-08778 and ORC § 3704.05(C).

4. On April 25, 2006, Ohio EPA issued PTI 01-12005 to Respondent for emissions unit P001, a 325 TPH double drum-mix asphalt plant controlled by a baghouse. The terms and conditions of the PTI restricted volatile organic compound ("VOC") emissions from emissions unit P001 when burning on-spec used oil, #2 fuel oil, #4 fuel oil, or #6 fuel oil, to less than 14.3 pounds per hour ("lbs/hr").

5. Respondent did not submit a Permit to Operate ("PTO") application within 90 days of commencing operating emissions unit P001, in violation of OAC Rule 3745-35-02(B)(5) and Part I, Section A., paragraph 13. of PTI 01-12005.

6. On October 16, 2006, Respondent conducted emissions testing for VOCs for emissions unit P001. The production rate, using used oil as the fuel, averaged 233 tons per hour during the test. The results of this test were 34.1 lbs/hr, in violation of Part II, Section A., paragraph 1. of PTI 01-12005 and ORC § 3704.05(C).

7. Based on the results of the October 16, 2006 test, on October 4, 2007, Ohio EPA, Division of Air Pollution Control, Central District Office ("CDO") issued a Notice of Violation ("NOV") to Respondent citing it with operating emissions unit P001 out of compliance with the VOC emission rate established by PTI 01-12005. In the NOV, CDO requested that Respondent submit a compliance plan and schedule that would include completing additional burner tuning for emissions unit P001, re-evaluation of plant operations and maintenance, and scheduling another emissions test to demonstrate compliance with the PTI limits.

8. On June 16, 2008, Respondent conducted a second emissions test for VOCs for emissions unit P001. The production rate, using used oil as the fuel, averaged 256 tons per hour during the test. The results of this test were 83.1 lbs/hr, in violation of Part II, Section A., paragraph 1. of PTI 01-12005 and ORC § 3704.05(C). The higher emission rate was attributed to operational problems that occurred during the testing. Specifically,

the drag slat became clogged prior to the first test run and additional used oil was employed as a "release agent" to clear the drag slat.

9. On August 13, 2008, Respondent conducted a third emissions test for VOCs for emissions unit P001. The production rate, using used oil as the fuel, averaged 252 tons per hour during the test. The results of this test were 18.5 lbs/hr, still in violation of Part II, Section A., paragraph 1. of PTI 01-12005 and ORC § 3704.05(C).

10. On May 6, 2009, Respondent submitted a request for an administrative modification of PTI 01-12005 to increase the VOC emission limit for emissions unit P001 from 14.3 lbs/hr to 52.23 lbs/hr and 20.1 tons per year.

11. Based on the emissions testing data from the August 13, 2008, test, Ohio EPA has re-evaluated the Best Available Technology determination for emissions unit P001 and has proposed increasing the permitted VOC emissions limit for the emissions unit to 21.28 lbs/hr. This limit will be incorporated into a new Permit to Install and Operate ("PTIO") to be issued to Respondent as a Chapter 3745-31 modification of the existing permit.

12. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Within thirty (30) days after the effective date of these Orders, Respondent shall submit an application for a PTIO to request a modification to the existing permit that would increase the allowable VOC emission rate for emissions unit P001. The requested allowable VOC emission rate shall be based upon the emissions test performed on August 13, 2008.

2. Respondent shall pay the amount of sixty-five thousand nine hundred and seventy-five dollars (\$65,975) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within fourteen (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for forty-two thousand seven hundred and eighty dollars (\$42,780) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

3. In lieu of paying the remaining twenty-three thousand one hundred and ninety-five dollars (\$23,195) of the civil penalty, Respondent shall fund the supplemental environmental projects ("SEPs") identified in Orders 5 and 6. Of the \$23,195, thirteen thousand one hundred and ninety-five (\$13,195) shall be used to fund the project in Order 5, and ten thousand dollars (\$10,000) shall be used to fund the project in Order 6. In the event Respondent defaults or fails to complete any of the projects as specified in Orders 5 and 6, the \$13,195 for the project in Order 5 and/or the \$10,000 for the project in Order 6, whichever is (are) applicable, shall immediately become due and payable to Ohio EPA. Such payment shall be made by an official check made payable to "Treasurer, State of Ohio" and sent to Brenda Case, or her successor, together with a letter identifying the Respondent, to the above-stated address.

4. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049

5. In lieu of paying the remaining thirteen thousand one hundred and ninety-five (\$13,195) of the civil penalty, Respondent shall, within fourteen (14) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$13,195 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$13,195. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

6. As outlined below, and with reference to the chapters described in Ohio EPA's 1993 "Ohio Pollution Prevention and Waste Minimization Planning Guidance Manual" (the Manual), Respondent shall conduct a pollution prevention study ("P2 Study") at the facility as a SEP in lieu of paying \$10,000 of the civil penalty. The P2 Study is an assessment of selected facility processes to identify and evaluate specific source reduction and environmentally sound recycling opportunities.

- a. Within ninety (90) days after the effective date of these Orders, Respondent shall submit a detailed narrative report to Ohio EPA for review and approval containing the following:

- i. a list of the members of a cross-functional team for the P2 Study, including the name of a designated team leader;
- ii. an identification of the processes selected for study and the methods used to select the processes; and
- iii. a description of the processes being studied, including types and quantities of raw materials used, waste generated (i.e., air emissions, hazardous waste, solid waste, wastewater), and the intermediate or final products.

The above items shall be completed following the guidance provided in Chapters 8 and 9 of the Manual.

- b. Within one hundred eighty (180) days after the effective date of these Orders, Respondent shall submit a detailed narrative report to Ohio EPA for review and approval containing the following:
 - i. an analysis of the process-related factors contributing to waste generation;
 - ii. a description of the specific pollution prevention opportunities identified; and
 - iii. a discussion of the approach used in screening and prioritizing pollution prevention opportunities for future implementation.

The above items shall be completed following the guidance provided in Chapters 11 and 12 of the Manual.

- c. Within two hundred seventy (270) days after the effective date of these Orders, Respondent shall submit a detailed narrative final report to Ohio EPA for review and approval containing the following:
 - i. an evaluation of the cost considerations and feasibility analysis of the identified pollution prevention opportunities;
 - ii. a discussion of those projects that have been eliminated as well as those that have been implemented, planned for implementation, or under consideration for possible implementation; and
 - iii. a description of the other items bulleted in Table 7 of Chapter 15 of the Manual.

The above items shall be completed following the guidance provided in Chapters 13, 14 and 15 of the Manual.

- d. Within three hundred and thirty (330) days after the effective date of these Orders, Respondent shall submit an approvable detailed narrative final report to Ohio EPA, unless the report submitted to Ohio EPA pursuant to the above paragraph c is approved by Ohio EPA.

Ohio EPA shall provide Respondent with its comments and an indication of approval or disapproval of the reports submitted pursuant to this Order in a timely manner.

7. Within thirty (30) days of the completion and approval by Ohio EPA of the project identified in Order 6, Respondent shall submit documentation to Ohio EPA of the total cost of the P2 Study. If the total cost of the P2 Study is less than \$10,000, Respondent shall submit, along with the final report identified in Order 6 and in the manner described in Order 2, an official check to Ohio EPA for the difference in cost between \$10,000 and the total cost of the P2 Study.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required in Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, operations by Respondent.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Central District Office
Lazarus Government Center
50 West Town Street, Suite 700
Columbus, Ohio 43215
Attn: Adam Ward

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
Lazarus Government Center
50 West Town Street, Suite 700
Columbus, Ohio 43215
Attn: John Paulian

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission,

or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date

AGREED:

Mar-Zane, Inc.

Signature

Date

Printed or Typed Name

Title



State of Ohio Environmental Protection Agency

STREET ADDRESS:

MAILING ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

P.O. Box 1049
Columbus, OH 43216-1049

SEP 29 2009

CERTIFIED MAIL

Mr. Jim Duff
President/CEO
Duff Quarry, Inc.
P.O. Box 305
9042 St. Rt. 117
Huntsville, OH 43324

Re: Proposed Director's Final Findings and Orders for violations of Ohio EPA's air pollution control requirements

Dear Mr. Duff:

My staff has informed me of the violations of the Ohio Administrative Code ("OAC") that occurred during a demolition project at your property located at the intersection of State Route 33 and State Route 274 in Huntsville, Logan County.

Specifically, the project violated: OAC Rule 3745-20-03(A) by conducting a demolition without submitting a notification to Ohio EPA prior to beginning the demolition; OAC Rule 3745-20-02(A) by failing to conduct a survey of the facility to detect potential asbestos-containing material prior to beginning the demolition; and, OAC Rule 3745-19-04(A) by conducting unauthorized open burning in an unrestricted area.

Enclosed is a copy of the proposed Findings and Orders prepared by my staff which includes a provision for the settlement of the claim for civil penalties for the violations that occurred. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Because this letter and the attached documents summarize a proposed settlement, I consider them inadmissible for any purpose in any enforcement action the State may take if a settlement cannot be reached.

Please review the attached documents carefully. If you have any questions concerning the proposed Findings and Orders, or if you would like to arrange a meeting to discuss a mutually acceptable settlement, please contact Donald L. Vanterpool, Ohio EPA Staff Attorney, at (614) 644-3037. If he does not hear from you within fourteen (14) days of the receipt of this letter concerning your willingness to accept the Findings and Orders as currently written, or with mutually agreed upon modifications, I will consider alternative enforcement mechanisms including referral of the violations to the Ohio Attorney General's

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

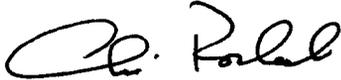
Duff Quarry, Inc.
Page 2 of 2

Office for legal action.

Enclosed is a copy of the guidance on the administrative enforcement process, which you may find helpful in answering any questions on Ohio EPA's enforcement process.

I hope that Duff Quarry, Inc. and Ohio EPA are able to resolve this matter via the enclosed proposal, and I thank you in advance for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Korleski". The signature is fluid and cursive, with a large initial "C" and a long, sweeping underline.

Chris Korleski
Director

xc: Jim Orlemann, DAPC
Eric Yates, DAPC
Donald L. Vanterpool, Legal Office
Tom Schneider, SWDO

Enclosures

A guide to the . . .

Administrative Enforcement Process

Within the Division of Air Pollution Control

Introduction

This information sheet has been prepared to help you understand the administrative enforcement process within the Agency. With an understanding of the process and adequate preparation, you can facilitate a prompt resolution of this enforcement action. Included are answers to the questions most frequently asked by parties involved in the administrative enforcement process.

I have been working with the District Office or local air agency inspector to correct the violations. Why is an enforcement action necessary?

The Agency considers the following factors in deciding that an enforcement action is necessary: (1) Ohio EPA needs to obtain civil penalties for your violations; (2) your violations are serious; (3) you have taken too long to address the violations; (4) you need to be on a formal schedule to address the violations; (5) you have been recalcitrant in addressing the violations; and/or (6) you are a chronic violator.

Why should I try to negotiate an administrative consent order with Ohio EPA?

- Negotiating administrative findings and orders ("Order") with the Ohio EPA avoids expensive and time-consuming litigation.
- Negotiation can be a swift resolution of the State's claims against you for the non-compliance.
- We can quickly identify any obstacle to agreement.
- Negotiation can minimize or prevent any intervention by the USEPA to address the violations.

Should I continue working with the District or local air agency inspector?

Yes, the District Office or local air agency inspector is the best person to work with you to resolve the technical aspects of the violations, and prepare an acceptable control plan and schedule for submission to the Agency. Central Office personnel will also be available to provide assistance.

What should I do now that I received the proposed administrative consent order?

You should review the enclosed Order and the summary of the penalty calculation. If you accept the enclosed Order as written, sign the Order and send it within two weeks to the staff attorney referenced in the Director's letter. If you cannot accept the Order as written, the Agency would like to meet with you to discuss your concerns. Please contact the designated staff attorney at (614) 644-3037 to arrange a meeting.

If I want to have a meeting, what should I do to prepare for it?

Generally, the most productive meetings occur when both parties come prepared to discuss all issues. The Order and correspondence from the District Office or local air agency inspector contain the Agency's position. Since you were not willing to agree to the Order as written, we need to know whether you: (1) disagree with the facts outlined in the Order; (2) are not able or willing to comply with the Order; or (3) have information you feel may mitigate the civil penalty settlement amount. Send the staff attorney a written summary of your issues within two weeks from the date of the Director's letter. Additionally, if you believe you are financially unable to pay the penalty, contact the staff attorney for a list of information we need to evaluate your ability to pay.

What will happen at the meeting?

During the meeting, we will respond to any information you have provided. We are willing to work with you to arrive at mutually agreed upon modifications to the Order. Except in the most complex cases, our goal is to complete all negotiations at the meeting. If we cannot agree at the meeting and we feel we are making adequate progress, we will hold our offer of settlement open. Thereafter, if resolution of the negotiations is not achieved within the time frame agreed to by the parties at the settlement meeting or if we feel we are not making adequate progress, the offer of settlement may be withdrawn, and we may consider other enforcement alternatives, including a referral to the Office of the Attorney General.

Why do I have to pay a civil penalty?

A civil penalty is necessary to deter future violations and to remove any economic advantage you may have realized from not complying with Ohio's regulations. Instead of a full cash payment, the Agency may be willing to accept a supplemental environmentally beneficial project ("SEP"), that meets certain guidelines.

How did the DAPC arrive at the civil penalty settlement amount?

Ohio EPA relied on U.S. EPA's Air Civil Penalty Policy to calculate the penalty. The DAPC uses this Policy to ensure that we calculate penalties fairly and consistently and that the penalty is appropriate for the gravity of the violations. Enclosed is a summary of the DAPC's civil penalty settlement calculation. If you want a copy of the U.S. EPA's Air Civil Penalty Policy, contact the designated staff attorney at (614) 644-3037.

Who from Ohio EPA will be at the meeting?

Everyone necessary to resolve the matter will be at the meeting or available during the meeting to provide settlement authority. This includes the staff attorney, the District Office or local air agency inspector, and Central Office technical personnel.

Who should I bring to the meeting?

Similarly, you should bring anyone familiar with the issues as well as anyone who has the authority to settle this matter. You are welcome to be represented at this meeting by your attorney and your consultant.

News releases

Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about our enforcement efforts. Ohio EPA's news release represents our position, and so we do not negotiate the language in the news release with you. If we prepare a news release, you will receive a courtesy copy shortly before it is released to the media and posted on our web site. You can read all of our news releases at: <http://www.epa.state.oh.us/pic/current.html>.

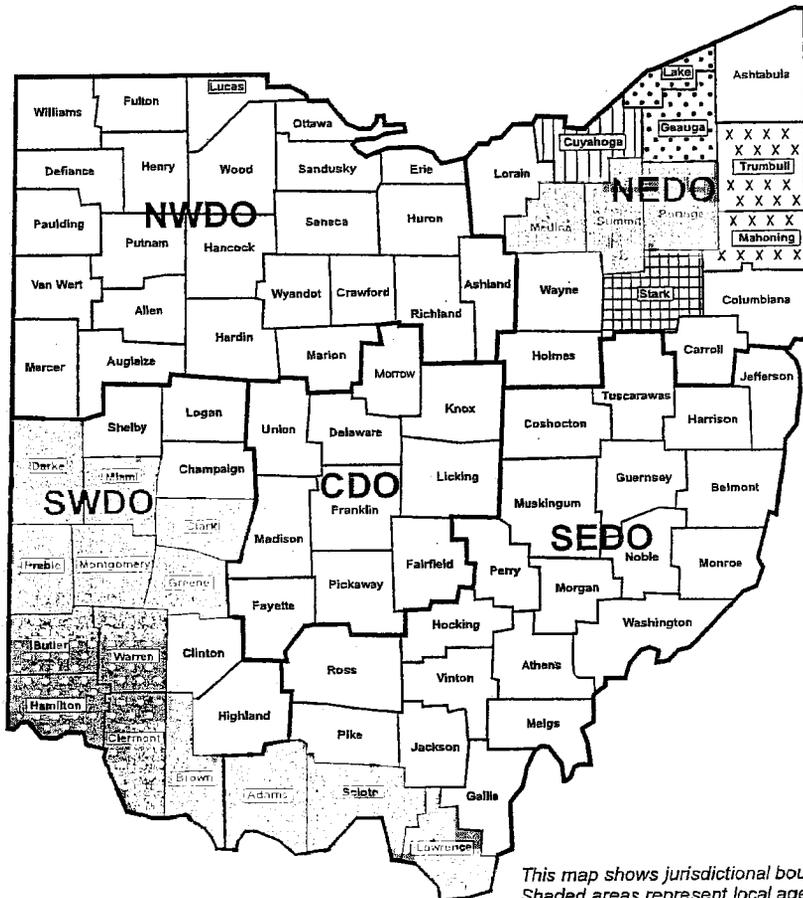
District Office and Local Air Agency Addresses and Phone Numbers

See the following pages.

Local Air Pollution Control Agencies

Division of Air Pollution Control
Ohio EPA, Central Office
(614) 644-2270

www.epa.state.oh.us/dapc/general/dolaa.html



This map shows jurisdictional boundaries.
Shaded areas represent local agencies within Ohio EPA districts.



District Offices

CDO Adam Ward, APC Manager
01 Central District Office
50 West Town Street, Suite 700
Columbus, OH 43215
(614) 728-3778 FAX (614) 728-3898
e-mail: adam.ward@epa.state.oh.us

SEDO Bruce Weinberg, APC Manager
06 Southeast District Office
2195 Front St.
Logan, OH 43138
(740) 385-8501 FAX (740) 385-6490
e-mail: bruce.weinberg@epa.state.oh.us

NEDO Dennis Bush, APC Manager
02 Northeast District Office
2110 E. Aurora Rd.
Twinsburg, OH 44087
(330) 425-9171 FAX (330) 487-0769
e-mail: dennis.bush@epa.state.oh.us

NWDO Mark Budge, APC Manager
03 Northwest District Office
347 North Dunbridge Rd.
Bowling Green, OH 43402
(419) 352-8461 FAX (419) 352-8468
e-mail: mark.budge@epa.state.oh.us

SWDO Tom Schneider, APC Manager
05 Southwest District Office
401 E. Fifth St.
Dayton, OH 45402-2911
(937) 285-6357 FAX (937) 285-6249
e-mail: tom.schneider@epa.state.oh.us

 **Lynn Malcolm, Administrator**
Akron Regional Air Quality
Management District
146 South High St, Room 904
Akron, Ohio 44308
(330) 375-2480 FAX (330) 375-2402
e-mail: Malcoly@ci.akron.oh.us

 **Dan Aleman, Administrator**
Air Pollution Control Division
Canton City Health Dept.
420 Market Ave. North
Canton, Ohio 44702-1544
(330) 489-3385 FAX (330) 489-3335
e-mail: daleman@cantonhealth.org

 **Cory R. Chadwick, Director**
Dept. of Environmental Services
Air Quality Programs
250 William Howard Taft Road
Cincinnati, Ohio 45219-2660
(513) 946-7777 FAX (513) 946-7778
e-mail: cory.chadwick@hamilton-co.org

 **Richard L. Nemeth, Commissioner**
Cleveland Dept. of Public Health
Division of Air Quality
Penton Media Building, 4th Floor
1300 East 9th St.
Cleveland, Ohio 44114
(216) 664-2297 FAX (216) 420-8047
e-mail: Rnemeth@city.cleveland.oh.us

 **John Paul, Administrator**
Regional Air Pollution Control Agency
Montgomery County Health Dept.
117 South Main St.
Dayton, Ohio 45422-1280
(937) 225-4435 FAX (937) 225-3486
e-mail: paulja@rapca.org

 **Bert Mechenbier, Supervisor ***
Lake County General Health District
Air Pollution Control
33 Mill Street
Painesville, Ohio 44077
(440) 350-2543 FAX (440) 350-2548
e-mail: BMechenbier@lcghd.org

 **Cindy Charles, Director**
Portsmouth Local Air Agency
605 Washington St., Third Floor
Portsmouth, Ohio 45662
(740) 353-5156 FAX (740) 353-3638
e-mail: cindy.charles@epa.state.oh.us

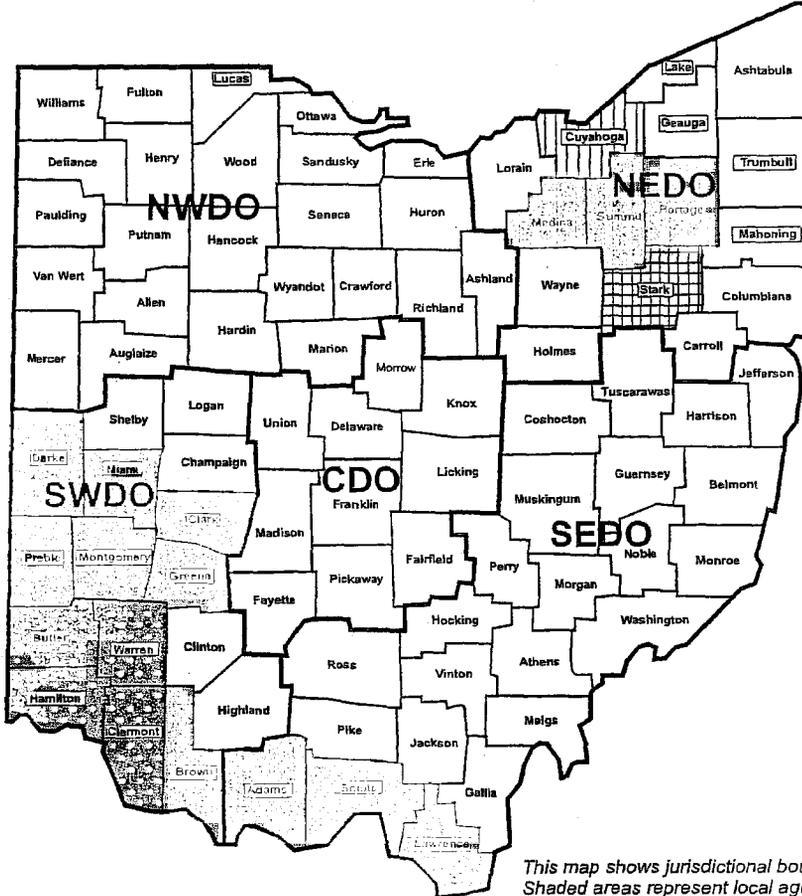
 **Karen Granata, Administrator**
City of Toledo
Division of Environmental Services
348 South Erie Street
Toledo, Ohio 43604
(419) 936-3015 FAX (419) 936-3959
e-mail: karen.granata@toledo.oh.gov

 **Misty Koletich, Supervisor ***
Mahoning-Trumbull APC Agency
345 Oak Hill Ave., Suite 200
Youngstown, Ohio 44502
(330) 743-3333 FAX (330) 744-1928
e-mail: mtapca@cboss.com

*Facilities located within these jurisdictions should file air permit applications with Ohio EPA's Northeast District Office (NEDO).

Air Permit Review Agencies

Division of Air Pollution Control
Ohio EPA, Central Office
(614) 644-2270
www.epa.state.oh.us/dapc/general/dolaa.html



This map shows jurisdictional boundaries.
Shaded areas represent local agencies within Ohio EPA districts.

OhioEPA

District Offices

CDO Adam Ward, APC Manager
01 Central District Office
50 West Town Street, Suite 700
Columbus, OH 43215
(614) 728-3778 FAX (614) 728-3898
e-mail: adam.ward@epa.state.oh.us

SEDO Bruce Weinberg, APC Manager
06 Southeast District Office
2195 Front St.
Logan, OH 43138
(740) 385-8501 FAX (740) 385-6490
e-mail: bruce.weinberg@epa.state.oh.us

NEDO Dennis Bush, APC Manager
02 Northeast District Office
2110 E. Aurora Rd.
Twinsburg, OH 44087
(330) 425-9171 FAX (330) 487-0769
e-mail: dennis.bush@epa.state.oh.us

NWDO Mark Budge, APC Manager
03 Northwest District Office
347 North Dunbridge Rd.
Bowling Green, OH 43402
(419) 352-8461 FAX (419) 352-8468
e-mail: mark.budge@epa.state.oh.us

SWDO Tom Schneider, APC Manager
05 Southwest District Office
401 E. Fifth St.
Dayton, OH 45402-2911
(937) 285-6357 FAX (937) 285-6249
e-mail: tom.schneider@epa.state.oh.us

Lynn Malcolm, Administrator
Akron Regional Air Quality
Management District
146 South High St, Room 904
Akron, Ohio 44308
(330) 375-2480 FAX (330) 375-2402
e-mail: Malcoly@ci.akron.oh.us

Richard L. Nemeth, Commissioner
Cleveland Dept. of Public Health
Division of Air Quality
Penton Media Building, 4th Floor
1300 East 9th St.
Cleveland, Ohio 44114
(216) 664-2297 FAX (216) 420-8047
e-mail: Rnemeth@city.cleveland.oh.us

Cindy Charles, Director
Portsmouth Local Air Agency
605 Washington St., Third Floor
Portsmouth, Ohio 45662
(740) 353-5156 FAX (740) 353-3638
e-mail: cindy.charles@epa.state.oh.us

Dan Aleman, Administrator
Air Pollution Control Division
Canton City Health Dept.
420 Market Ave, North
Canton, Ohio 44702-1544
(330) 489-3385 FAX (330) 489-3335
e-mail: daleman@cantonhealth.org

John Paul, Administrator
Regional Air Pollution Control Agency
Montgomery County Health Dept.
117 South Main St.
Dayton, Ohio 45422-1280
(937) 225-4435 FAX (937) 225-3486
e-mail: paulja@rapca.org

Karen Granata, Administrator
City of Toledo
Division of Environmental Services
348 South Erie Street
Toledo, Ohio 43604
(419) 936-3015 FAX (419) 936-3959
e-mail: karen.granata@toledo.oh.gov

Cory R. Chadwick, Director
Dept. of Environmental Services
Air Quality Programs
250 William Howard Taft Road
Cincinnati, Ohio 45219-2660
(513) 946-7777 FAX (513) 946-7778
e-mail: cory.chadwick@hamilton-co.org

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Duff Quarry, Inc.	:	<u>Director's Final Findings</u>
9042 St. Rt. 117	:	<u>and Orders</u>
P.O. Box 305	:	
Huntsville, Ohio 43324	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Duff Quarry, Inc. ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meanings as defined in ORC Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns property located at the intersection of St. Rt. 33 and 274 in Huntsville in Logan County.
2. OAC Rule 3745-19-04(A) prohibits "open burning," as defined in OAC Rule

3745-19-01(H), in an unrestricted area except as otherwise provided in OAC Rule 3745-19-04(B) to (D) and ORC § 3704.11. The provisions of OAC Rule 3745-19-04(B) to (D) and ORC § 3704.11 do not provide for the open burning of demolition debris in an unrestricted area.

3. ORC § 3704.05(G) states, in part, that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704. OAC Chapter 3745-19 was adopted by the Director pursuant to ORC Chapter 3704.

4. On July 13, 2009, Ohio EPA Southwest District Office ("SWDO") received a complaint that Respondent was conducting open burning of demolition debris at the above-mentioned property. Upon inspection of the property on July 15, 2009, SWDO discovered two large piles of smoldering waste that were approximately 10 to 15 feet wide and 50 to 70 feet long. Visible flame was observed at one location in the pile.

5. Open burning of such waste material is prohibited by rule, and the open burning was not otherwise exempted from the prohibition of OAC Rule 3745-19-04(A).

6. OAC Rule 3745-20-02(A) requires that the owner/operator of a demolition site conduct a survey of the structure prior to demolition to assess whether asbestos may be present in the structure.

7. OAC Rule 3745-20-03(A) requires that the owner/operator of a demolition project provide Ohio EPA with at least a ten day notice prior to beginning demolition activities.

8. During the open burning inspection, SWDO discovered that the demolition debris being burned resulted from the demolition of several mobile home trailers and a building formerly used as an office building by the previous property owner. SWDO did not receive a notification of demolition or an asbestos survey for the former office building located on the property.

9. Based on the above Findings, the Director of Ohio EPA finds that Respondent violated the following ORC law and OAC rule at some time on or before July 15, 2009:

- ORC § 3704.05(G), for violating a rule the Director adopted under ORC Chapter 3704;
- OAC Rule 3745-19-04(A) which prohibits the open burning of demolition debris;
- OAC Rule 3745-20-02(A) by failing to conduct a thorough inspection for

asbestos prior to beginning the demolition; and

- OAC Rule 3745-20-03(A) by failing to provide notification of demolition or renovation at least ten working days before the beginning of any demolition operation.

10. On July 20, 2009, a notice of violation ("NOV") letter was sent to Respondent by certified mail.

11. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of eight thousand dollars (\$8,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by official check made payable to "Treasurer, State of Ohio" within 30 days of the effective date of these Orders. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent to:

Ohio EPA
Office of Fiscal Administration
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

2. A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, OH 43216 - 1049

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the valid official check required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the Respondent's activities at the Facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio EPA
Southwest District Office
401 E. Fifth Street
Dayton, Ohio 45402
Attn: Tom Schneider

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
50 West Town Street

Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: John Paulian

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date

AGREED:

Duff Quarry, Inc.

Signature

Date

Printed or Typed Name

Air Civil Penalty Worksheet

Duff Quarry, Inc.

A. Benefit Component: (enter from attached computer calculation)		NA	Waste disposal costs would most likely have been less than \$5,000.
B. Gravity Component: 1. Actual or possible harm			
a. Amount above standard:			
b. Toxicity of pollutant:			
c. Sensitivity of environment:			
d. Length of time of violation:			
2. Importance to regulatory scheme:	<u>\$5,000</u>		Failure to provide 10-day notice prior to conducting a demolition of a commercial property, in violation of OAC Rule 3745-20-03(A)
	<u>\$5,000</u>		Failure to conduct an asbestos survey prior to beginning a demolition, in violation of OAC Rule 3745-20-02(A).
	<u>\$1,000</u>		Conducting open burning activities on commercial property, in violation of OAC Rule 3745-19-04(A).
3. Size of violator:	<u>\$5,000</u>		Per Reference USA, 20% of annual sales of \$5 million results in an estimated net worth of \$1 million.
Total Gravity Component:		<u>\$16,000</u>	
Preliminary Deterrence Amount: (sum of benefit and gravity components)			
C. Flexibility-Adjustment Factor:			
1. Degree of willfulness or negligence: (total gravity component times an augmentation percentage)			
2. Degree of cooperation: (total gravity component times any mitigation percentage)			
3. History of noncompliance: (total gravity component times any augmentation percentage)			
4. Ability to pay: (any mitigation amount)			
5. Other unique factors: (total gravity component times any mitigation or augmentation percentage)	<u>(\$8,000)</u>		50% mitigation due to the small size of the demolition project and the fact that it is unlikely that there was asbestos present in the building that was demolished.
All augmentation (+) and mitigation (-) amounts added: (if negative, cannot exceed total gravity component)		<u>(\$8,000)</u>	
D. Administrative component			
1. Installation of source without obtaining permit-to-install			
2. Operation of source without obtaining permit-to-operate or Title V permit			
Total Administrative Component		<u>\$0</u>	
E. Initial Minimum Settlement Amount: [preliminary deterrence amount + or - sum of flexibility adjustment factors plus administrative component (A+B+C+D)]		<u>\$8,000</u>	