

AGENDA FOR THE NOVEMBER 5, 2009 EC MEETING

CASES TO BE CLOSED:

Circle K Midwest (GDFs #5204, #5209, #5318 and #5320)	#2776	NEDO	Final F&Os	Tom/Marc
(GDFs #0059, #5217, #5557 and #5558)	#2863	HAMCO		
Endres Processing, LLC	#2868	NWDO	AGO Referral	John/Bryan

PENDING CASES:

Ariel Corporation (HPV)	#2824	CDO	Prop. F&Os	John/Marc
Lehigh Gas Corporation (GDFs at Vermillion Valley and Middle Ridge Service Plazas on Ohio Turnpike)	#2854	NEDO	Prop. F&Os	Tom/Steve
Uzair, Inc., d.b.a. Lakeside Fuel	#2855	NEDO	Prop. F&Os	Tom/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) **Tom (with Steve substituting) 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, November 19, 2009 at 3:00 p.m. in DAPC Rm C. Steve (with Tom substituting) is scheduled for food. (Future food schedule: Jim for December 3; John for December 17; and Don for December 31.)

ENFORCEMENT COMMITTEE MEETING MINUTES

(November 5, 2009)

Case Number: 2776/2863	Dates:
Entity: Circle K Midwest (GDFs #5204, #5209, #5318, #5320, #0059, #5217, #5557 and #5558)	EAR: 11/04/08 (NEDO) 08/01/09 (HAMCO)
Field Office: NEDO (Case #2776: GDFs #5204, #5209, #5318, #5320) HAMCO (Case #2863: GDFs #0059, #5217, #5557, #5558)	DWL: N/A
Contact: Jim Kavalec/Tom Kalman	F&Os: 11/04/09
Attorney: Marc Glasgow	Referral: N/A
	Dismissal: N/A

Background: Circle K Midwest ("Circle K") of 315 Columbus Mall, Columbus, Indiana, owns and operates gasoline dispensing facilities ("GDFs") located at:

1150 South Broadway, Geneva, Ashtabula County, Ohio (#5204);
2808 Grove Avenue, Lorain, Lorain County, Ohio (#5318);
5825 South Main Street, Ashtabula, Ashtabula County, Ohio (#5209);
36701 Chester Street, Avon, Lorain County, Ohio (#5320);
1031 Harrison Avenue, Harrison, Hamilton County, Ohio (#0059);
2166 Pleasant Avenue, Hamilton, Butler County, Ohio (#5217);
10630 Loveland-Madeira Road, Loveland, Clermont County, Ohio (#5557); and
1101 State Route 28, Milford, Clermont County, Ohio (#5558).

These GDFs are subject to the Stage II vapor control system requirements of OAC Rule 3745-21-09(DDD).

On March 17, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Circle K to attempt an administrative settlement of the violations that occurred at GDFs #5204, #5318, #5209 and #5320. The F&Os propose to require Circle K to do the following:

- (1) Within 30 days after the effective date of the F&Os submit permit-by-rule ("PBR") notifications to Ohio EPA for GDFs #5209 and #5320 in accordance with OAC Rule 3745-31-03(A)(4)(a);
- (2) Within 30 days after the effective date of the F&Os, repair the Stage II vapor control system at GDF #5318 and conduct passing static leak and A/L ratio tests (a pretest notice and test results are to be submitted within 14 days prior to and after testing, respectively);
- (3) Within 60 days after the effective date of the F&Os, submit documentation to Ohio EPA demonstrating proof of attendance and completion of the training required for GDFs #5204 and #5318 pursuant to OAC Rule 3745-21-09(DDD)(3)(a)(vi);
- (4) Beginning by March 15, 2009 and by March 15, 2010 and continuing until October 31, 2009 and October 31, 2010, conduct weekly inspections of the Stage II vapor control system at each GDF for the next two ozone seasons (April 1, 2009 through October 31, 2009 and April 1, 2010 through October 31, 2010), checking for leaks, malfunctions, or damage to the systems, and keep records of such inspections and repairs and submit copies of the weekly inspection reports by August 14 for the period from March 15 through July 31, and by November 14 for the period from August 1 through October 3;
- (5) Perform and pass static leak and A/L ratio tests at each GDF for the next two ozone-producing seasons (April 1, 2009 through October 31, 2009 and April 1, 2010 through October 31, 2010) during March and August of each season and notify Ohio EPA 14 days prior to each test and submit test results to Ohio EPA within 14 days of each test date; and
- (6) Pay a civil penalty of \$100,000 to Ohio EPA, of which \$80,000 is due to Ohio EPA within 14 days after the effective date of the F&Os and \$20,000 is 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.

The Enhanced Enforcement Protocol was used along with the USEPA's civil penalty policy to calculate the penalty. A penalty of \$5,000 was assessed for each failure of a GDF to pass consecutive tests or when a GDF fails any test in two consecutive years. Also, a penalty of \$25 per day was applied for each GDF that failed to fix and retest its dispenser(s) within 30 days. Also, penalties were not pursued for the failure to obtain PTOs at two of the GDFs due to the statute of limitations policy.

During negotiations over these proposed F&Os, the civil penalty was reduced to \$50,000. However, additional violations of the Stage II vapor control system requirements were provided to Central Office from the Hamilton County Department of Environmental Services ("HAMCO") for GDFs #0059, #5217, #5557 and #5558. The calculated civil penalty for these violations was \$50,700. As a result and with the company's desire to include all violating GDFs into the F&Os, revised proposed F&Os were sent to Circle K sometime in August of 2009 with a total civil penalty of \$100,000 for all eight GDFs. These F&Os were identical in content to the above-mentioned items, except that items (1) through (3) were deleted and the ozone seasons were changed to 2010 and 2011.

Each of these GDFs had violations of air pollution control requirements and state law as summarized below:

Circle K #5204:

- (1) Failed the A/L ratio test for dispensers 1, 2, 5 and 7 on April 25, 2007 during an annual Stage II compliance test and continued operating these dispensers after the failed test, until May 14, 2007, when a passing A/L ratio test was completed for these dispensers, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G);
- (2) Failed the A/L ratio test for dispensers 2, 7, 8 and 9 on May 13, 2008; for dispenser 10 on September 29, 2008; and failed the static leak test for dispensers 1, 2, 9 and 10 on September 3, 2008; during the annual Stage II compliance tests and continued operating these dispensers after the failed tests, until October 28, 2008, when the final passing test was completed, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G);
- (3) Operating dispensers 1, 2, 9 and 10 from September 3, 2008 to October 28, 2008 with leaking vacuum pump motors while continuing operation of the dispensers, in violation of OAC Rule 3745-21-09(DDD)(1)(b) and ORC § 3704.05(G);
- (4) Operating dispenser 10 from September 29, 2008 to October 28, 2008 with leaking vacuum pump motors while continuing operation of the dispensers, in violation of OAC Rule 3745-21-09(DDD)(1)(b) and ORC § 3704.05(G);

- (5) Failed to complete a full successful passing static leak test and, for dispensers 2, 7, 8 and 9, a passing A/L ratio test within one year from the last test of May 17, 2007, in violation of OAC Rule 3745-21-09(DDD)(2)(f) and ORC § 3704.05(G);
- (6) Failed to maintain records demonstrating proof of attendance and completion of the training required by Ohio EPA from February 19 to September 15, 2009, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(vi) and ORC § 3704.05(G);

Circle K #5318:

- (7) Failed the static leak test and did not conduct the A/L ratio test on May 14, 2008, and did not conduct the tests on September 2, 2008, during an annual Stage II compliance test and continued operating the GDF after the failed test and to April 8, 2009, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G);
- (8) Failed the A/L ratio test for dispenser 5 on April 21, 2009, during an annual Stage II compliance test and continued operating the GDF after the failed test and to June 11, 2009, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G);
- (9) Failed to maintain records demonstrating proof of attendance and completion of the training required by Ohio EPA from May 14, 2008 to May 22, 2009, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(vi) and ORC § 3704.05(G);
- (10) Operating the GDF from May 14, 2008 until not later than April 8, 2009 due to a leak in a drop tube; from September 2, 2008 until not later than April 8, 2009 due to leaking vacuum pump motors, in violation of OAC Rule 3745-21-09(DDD)(1)(b) and ORC § 3704.05(G);
- (11) Operating the GDF from April 21, 2009 until at least June 11, 2009 with a malfunctioning vacuum pump motor, in violation of OAC Rule 3745-21-09(DDD)(1)(b) and ORC § 3704.05(G);
- (12) Failed to complete a full successful passing test for dispensers 1 through 6 within one year from the last test of June 7, 2007, in violation of OAC Rule 3745-21-09(DDD)(2)(f) and ORC § 3704.05(G);

Circle K #5209:

- (13) Failed to obtain a permit to operate or a PBR for the GDF from September 15, 1997 to May 4, 2009, in violation of former OAC Rule 3745-35-02, OAC Rule 3745-31-02, and ORC § 3704.05(G);
- (14) Failed the A/L ratio test for dispenser 4 on May 12, 2008 during an annual Stage II compliance test and continued operation of this dispenser after the failed test until September 29, 2008, when a passing A/L ratio test was completed. This action constituted violations of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G);
- (15) Failed to complete a full successful passing test for dispensers 2 and 4 within one year from the last test of April 25, 2007, in violation of OAC Rule 3745-21-09(DDD)(2)(f) and ORC § 3704.05(G);

Circle K #5320:

- (16) Failed to obtain a permit to operate or a PBR for the GDF from July 6, 2001 to May 4, 2009, in violation of former OAC Rule 3745-35-02, OAC Rule 3745-31-02, and ORC § 3704.05(G);
- (17) Failed the A/L ratio test and the static leak test for dispenser 3 on March 15, 2007, the static leak test on February 25, 2008, and the A/L ratio test for dispensers 15 and 16 on March 24, 2008, during annual Stage II compliance tests and continued operation of this GDF after the failed tests until May 16, 2007, March 24, 2008, and June 9, 2008, respectively, by which dates complying tests were performed, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G);
- (18) Operating the GDF from February 25, 2008 until June 9, 2008 with a leaking vacuum pump motor, in violation of OAC Rule 3745-21-09(DDD)(1)(b) and ORC § 3704.05(G);

Circle K #0059:

- (19) Failed the A/L ratio test for dispensers 2, 3, 4 and 8 on February 26, 2009. Also, on February 26, 2009, dispensers 5, 6 and 7 were not pumping and could not be tested. Circle K continued operating these dispensers after the failed tests and

until March 3, 2009, when the A/L ratio test passed on these dispensers, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G);

- (20) Operating dispensers 5, 6 and 7 from February 26, 2009 to not later than March 3, 2009 with malfunctioning pumps while continuing operation of the dispensers, in violation of OAC Rule 3745-21-09(DDD)(1)(b) and ORC § 3704.05(G);
- (21) Failed the A/L ratio test for dispenser 4 on June 23, 2009 during the annual Stage II compliance tests and continued operating this dispenser on June 23, 2009 and from June 29, 2009 until July 20, 2009, when an A/L ratio test for dispenser 4 passed, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G);

Circle K #5217:

- (22) Failed the A/L ratio test for dispensers 1, 2 and 4 on March 2, 2009; for dispenser 2 on March 10, 2009; and for dispensers 1, 2 and 4 on July 2, 2009; during annual Stage II compliance tests and continued operating these dispensers after the failed tests, until July 31, 2009, when the A/L ratio test passed on dispensers 1, 2 and 4, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G);
- (23) Operating dispenser 2 from March 10, 2009 to not later than July 2, 2009 with a bad vacuum pump motor while continuing operation of the dispenser, in violation of OAC Rule 3745-21-09(DDD)(1)(b) and ORC § 3704.05(G);
- (24) Operating dispensers 1, 2 and 4 from July 2, 2009 to not later than July 31, 2009 with nozzles that were not certified by CARB for the Stage II vapor control system being used at this GDF while continuing operation of the dispensers, in violation of OAC Rule 3745-21-09(DDD)(1)(b) and ORC § 3704.05(G);
- (25) Failed the A/L ratio test for dispensers 1 and 3 on August 6, 2009, during the annual Stage II compliance test and continued operating these dispensers after the failed tests, until August 31, 2009, when the A/L ratio test passed on dispensers 1 and 3, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G);

Circle K #5557:

- (26) Could not perform the annual Stage II vapor control system compliance tests due to excess ullage; failed the A/L ratio test for dispensers 3, 6, 9, 13 and 14 on May 28, 2008, during annual Stage II compliance tests and continued operation of this GDF after the failed tests until September 10, 2008 when dispensers 3, 6, 9, 13 and 14 passed a retest, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G);
- (27) Operating the GDF with the Hasstech vapor control system turned off while continuing operation of the GDF on July 11, 2008, in violation of OAC Rule 3745-21-09(DDD)(1)(b) and ORC § 3704.05(G);
- (28) Failed to complete a full successful passing static leak test within one year from the last test (May 28, 2007), in violation of OAC Rule 3745-21-09(DDD)(2)(f) and ORC § 3704.05(G);
- (29) Failed the static leak test and failed the A/L ratio test for dispensers 13, 14 and 16 on April 17, 2009, during the annual Stage II compliance test and continued operating these dispensers after the failed tests, until July 16, 2009, when passing A/L ratio and static leak tests were performed, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G);

Circle K #5558:

- (30) Failed the static leak test and did not conduct the A/L ratio test on January 2, 2008; did not perform the static leak and A/L ratio tests on July 25, 2008 due to the Stage II vapor control system being inoperable; failed the A/L ratio test for all dispensers on September 8, 2008; failed the A/L ratio test for dispensers 15 and 16 on March 24, 2008, during annual Stage II compliance tests and continued operation of this GDF after the failed tests until June 22, 2009 when complying tests were performed, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G);
- (31) Operating the GDF with a leaking spill bucket drain from January 2, 2008 to not later than July 25, 2008 while continuing operation of the GDF, in violation of OAC Rule 3745-21-09(DDD)(1)(b) and ORC § 3704.05(G);

- (32) Operating the GDF with an inoperable Stage II vapor control system from July 25, 2008 to not later than September 8, 2008 while continuing operation of the GDF, in violation of OAC Rule 3745-21-09(DDD)(1)(b) and ORC § 3704.05(G);
- (33) Operating the GDF with a leaking vapor pipe joint on February 23, 2009 to not later than June 22, 2009 while continuing operation of the GDF, in violation of OAC Rule 3745-21-09(DDD)(1)(b) and ORC § 3704.05(G); and
- (34) Failed to complete full successful passing static leak and A/L ratio tests within one year from the last test (January 2, 2007), in violation of OAC Rule 3745-21-09(DDD)(2)(f).

Notice of violation letters were sent to Circle K by NEDO on May 20, and September 3 and 16, 2008 and by HAMCO on July 30 and October 24, 2008, and on July 15, 2009.

On November 4, 2008, NEDO submitted an Enforcement Action Request to Central Office for the purpose of obtaining administrative orders and a civil penalty for the violations. On or about August 1, 2009, HAMCO added its violations to the case.

(See the EC Meeting Minutes of March 26, 2009 for additional background information.)

A settlement was eventually reached with Circle K through verbal and written communication

Action: On November 4, 2009, final F&Os were issued to Circle K to resolve the violations at the eight GDFs. The F&Os require Circle K to perform the inspections and testing proposed in the March 17, 2009 F&Os for all eight GDFs and for the next two ozone seasons and pay a total civil penalty of \$100,000 for all of the GDFs within 30 days after the effective date of the F&Os, of which \$20,000 is due to the Ohio EPA Clean Diesel School Bus Program Fund as a SEP. **Cases Closed**



Case Number: 2868	Dates:
Entity: Endres Processing, LLC	EAR: 10/06/09
Field Office: NWDO	DWL: N/A
Contact: John Paulian	F&Os: N/A
Attorney: Bryan Zima	Referral: 11/03/09
	Dismissal: N/A

Background: At its facility located at 7300 State Highway 199, in Upper Sandusky, Ohio (facility ID 0388010003), Endres dries bakery by-products for use as an animal feed supplement. Items such as pizza dough, cookies, cereal, snack foods, etc. are dried in two direct fired driers (emissions units P901 and P902) using sawdust, paper, and plastics as fuel.

In the drying process, VOCs from fermentation occurring in the bakery products, fine particulate matter, and products of incomplete combustion are generated. The emissions from the driers are routed through cyclones then combined and exhausted through a venturi scrubber, a wet electrostatic precipitator ("WESP"), and finally a regenerative thermal oxidizer ("RTO"). The PTI outlines a comprehensive list of monitoring parameters for each piece of control equipment to ensure that it is operating properly and meeting the required destruction efficiency or vendor guaranteed removal efficiency.

After receiving a complaint from inspectors of the Occupational Safety and Health Administration, DAPC Northwest District Office staff inspected the facility on July 30, 2009, and August 4 and 5, 2009, and identified numerous violations of both the Amended Consent Order and Permit to Install ("PTI") P0104599, issued to Endres on May 7, 2009. A NOV was sent to the company on September 2, 2009, detailing the violations that had been discovered.

The following violations of PTI P0104599 and ORC § 3704.05 have been identified by NWDO:

- Endres has failed to properly operate and maintain equipment to continuously monitor and record RTO combustion temperatures and to collect and record this information on a daily basis, in violation of PTI Term and Conditions C.1.(d)(5) and (6) and ORC § 3704.05(C). NWDO's review of Endres' records indicated that from March 11, 2009 through May 11, 2009, and from June 2, 2009 through July 8, 2009, this information was not collected or recorded. In addition, the failure to report the above deviations are violations of PTI Term and Condition C.1.(e)(2)e., which requires RTO combustion temperature recordkeeping

deviations to be reported quarterly, and ORC § 3704.05(C). These deviations were not reported in the 1st or 2nd quarter 2009 reports submitted by Endres on April 30, 2009 and July 31, 2009.

Production records for the 4th quarter of 2008 do not include pressure drop readings for the cyclones associated with the dryers. In the records for the 1st quarter of 2009, there are numerous readings for each cyclone that are out of the specified ranges with no information outlining the corrective actions taken to correct the deviations. The failure to properly operate and maintain equipment to continuously monitor and record the cyclone pressure drop is a violation of PTI Term and Condition C.1.(d)(7) and ORC § 3704.05(C). In addition, Endres' failures to report these deviations in its 3rd and 4th quarter of 2008, and 1st and 2nd quarter of 2009 deviation reports are violations of PTI Term and Condition A.4.(c)(3) and ORC § 3704.05(C).

Production records for the 1st and 2nd quarters of 2009 showed that Endres had failed to properly operate and maintain equipment to continuously monitor and record pressure drop across the venturi scrubber and the milliamps and secondary voltages for the WESP, and had failed to investigate any deviations of these operating parameters, in violation of PTI Term and Condition C.1.(d)(6) and ORC § 3704.05(C). In addition, Endres failed to report these deviations in its 1st and 2nd quarter reports, in violation of PTI Term and Condition C.1.(e)(1) and ORC § 3704.05(C).

A review of the production logs from June and July 2009 indicate that there were operational issues with P903 (sawdust handling) on June 1, 2009, and July 4, 2009, that resulted in a large pile of sawdust on the roof and unpermitted fugitive dust emissions. Endres failed to immediately report these malfunctions to Ohio EPA NWDO, in violation of OAC Rule 3745-15-06 and ORC § 3704.05(G).

NWDO also has evidence that Endres has failed to report other malfunctions, in violation of OAC Rule 3745-15-06, and is frequently sending emissions through the bypass stack. Citizen complaints regarding the facility's operations have been increasing, and it is possible that emissions routed through the bypass stack are causing a public nuisance, in violation of OAC Rule 3745-15-07.

In addition to the violations identified above, NWDO also believes that it is likely that Endres has exceeded its stated maximum process weight rate of 30 tons/hour of combined raw material input for both dryers. Although this is not a permit limit, Ohio EPA has historically structured the facility's emission limitations in its permits based on

this rate as a maximum physical capacity for the process. It is likely that operating at a higher process weight rate will result in increased emissions and possibly exceedances of the permit limits. No testing of emissions from these dryers was ever conducted at input rates greater than 30 tons/hour. Endres has stated that the equipment has not been modified to allow for increased processing capacity. NWDO is continuing to investigate this issue and will forward any further information to Central Office for review and inclusion in this case, if needed.

Possible additional violations are being investigated by the Ohio EPA Division of Surface Water, NWDO, and, if confirmed, will be referred to DSW Central Office for enforcement and consolidated with this action.

Action: This case was referred to the AGO on November 3, 2009, to be consolidated with the current contempt action being pursued by the AGO. DAPC asked that the AGO resolve this case by obtaining a consent order requiring Endres to correct all violations identified at its facility and pay a civil penalty (calculated at \$107,000). In addition, the AGO should obtain stipulated penalties for the violations of the previous Consent Order.

Case Closed



Case Number: 2824	Dates:
Entity: Ariel Corporation	EAR: 05/18/09
Field Office: CDO	DWL: N/A
Contact: Eric Yates/John Paulian	F&Os: 10/19/09 (prop.)
Attorney: Marc Glasgow	Referral: N/A
	Dismissal: N/A

Background: Ariel Corporation ("Ariel") owns a manufacturing facility located at 35 Blackjack Road in Mount Vernon. At the facility, Ariel designs and manufactures large compressors used in the natural gas gathering, pipeline, and gas storage industries.

On May 23, 2002, permit to install ("PTI") 01-08607 was issued for emissions unit K003 (paint booth).

On April 2, 2008, Ohio EPA Central District Office conducted an inspection of Ariel's facility and also completed a review of the record keeping required by PTI 01-08607.

PTI 01-08607 and OAC Rule 3745-21-09(U)(2)(e)(iii) limit the amount of coatings allowed in emissions unit K003 to ten (10) gallons per day.

On at least 67 days between February 2007 and March 2008, Ariel exceeded the ten gallon per day limit for coating usage, in violation of the terms and conditions of PTI 01-08607, OAC Rule 3745-21-09(U)(2)(e)(iii), and ORC § 3704.05(C) and (G).

PTI 01-08607 requires that deviation reports be submitted within 45 days of any daily record showing the use of more than the applicable maximum daily coating usage limit of 10 gallons per day.

Ariel failed to submit deviation reports identifying the 67 days that the maximum daily coating usage limit of 10 gallons per day was exceeded, in violation of the terms and conditions of PTI 01-08607 and ORC § 3704.05(C).

PTI 01-08607 requires that Ariel keep records of the total VOC emission rate on a daily basis for all coatings and cleanup materials, in pounds per day.

Since at least February 2007, Ariel has failed to maintain records of the total VOC emission rate on a daily basis for all coatings and cleanup materials, in pounds per day, in violation of PTI 01-08607.

Ariel has since installed extensive monitoring equipment that tracks coating usage to the ounce and will allow Ariel to better track its coating usage and generate reports required by its PTIs.

On February 12, 2009, Ohio EPA Central District Office sent a notice of violation to Ariel for the above violations.

Action: On October 19, 2009, proposed Director's Final Findings and Orders were sent to Ariel in an attempt to obtain an administrative settlement. The proposed Orders require Ariel to pay a civil penalty of \$27,500 of which 20% will be directed to the school bus diesel retrofit program. **Case Continued**



Case Number: 2854	Dates:
Entity: Lehigh Gas Corporation (GDFs at Vermilion Valley and Middle Ridge Service Plazas of Ohio Turnpike in Amherst)	EAR: 09/03/09
Field Office: NEDO	DWL: N/A
Contact: Jim Kavalec/Tom Kalman	F&Os: 11/03/09 (prop.)
Attorney: Stephen Feldmann	Referral: N/A
	Dismissal: N/A

Background: Lehigh Gas Corporation ("Lehigh") of 1425 Mountain Drive North in Bethlehem, Pennsylvania operates the gasoline dispensing facilities ("GDFs") at the Vermilion Valley and Middle Ridge Service Plazas of the Ohio Turnpike in Amherst, Ohio. The GDFs are operated by Lehigh for the Ohio Turnpike Commission. These GDFs are subject to the Stage II vapor control system requirements of OAC Rule 3745-21-09(DDD). These GDFs employ Stage II vapor control systems that are required to be tested annually (static leak test and air-to-liquid ("A/L") ratio test) and every five years (dynamic pressure performance test).

The GDFs obtained Permit-by-Rule status from Ohio EPA in 2008.

Vermilion Valley Service Plaza

On July 20, 2007, Lehigh attempted to conduct the 2007 annual static leak and A/L ratio tests at this GDF. Lehigh failed the static leak test due to a spill bucket leak on tank #6, and the A/L ratio test was not conducted due to the static leak test failure. On September 27, 2007, Lehigh retested the GDF and passed the static leak test but failed the A/L ratio test for dispensers 3, 5, 9 and 13. On October 18, 2007, Lehigh conducted and passed an A/L ratio retest.

On June 16, 2008, Lehigh conducted and passed the 2008 annual static leak and A/L ratio tests for this GDF, and on July 14, 2008 it conducted and passed the five-year dynamic pressure performance test for the GDF.

On May 20, 2009, Lehigh conducted the 2009 annual static leak and A/L ratio tests at this GDF. The static leak test passed but the A/L ratio test failed for dispensers 4, 5 and 6 due to low or no vacuum. On July 29, 2009, Lehigh conducted and passed a retest for this GDF.

Lehigh was dispensing gasoline the entire time after the above-mentioned failing tests and improperly operating equipment. The failure to properly install, operate, and maintain the vapor control system and 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 tank into a motor vehicle were violations of OAC Rule 3745-21-09(DDD)(1)(b) and (DDD)(1)(c) and ORC § 3704.05(G).

Middle Ridge Service Plaza

On June 16, 2008, Lehigh conducted the 2008 annual static leak and A/L ratio tests at this GDF. Lehigh failed the static leak test due to leaking drop tubes and the A/L ratio test for dispensers 9, 10, 18 and 25. On July 14, 2008, Lehigh conducted and passed a retest at this GDF.

On May 19, 2009, Lehigh conducted the 2009 annual static leak and A/L ratio tests at this GDF. The static leak test failed due to leaks in the Stage II vapor control system and the A/L ratio test was not attempted due to these leaks. In addition, hoses on nine dispensers were in poor condition and needed to be replaced and several dry break caps had no gaskets. On July 28, 2009, Lehigh attempted to conduct a retest at this GDF but no repairs had been made so the testing was not performed because it would not pass. On August 17, 2009, Lehigh conducted and passed a retest at this GDF.

Lehigh was dispensing gasoline the entire time after the above-mentioned failing tests and improperly operating equipment. The failure to properly install, operate, and maintain the vapor control system and 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 tank into a motor vehicle were violations of OAC Rule 3745-21-09(DDD)(1)(b) and (DDD)(1)(c) and ORC § 3704.05(G).

On September 3, 2009, NEDO submitted an Enforcement Action Request to Central Office for the violations at these GDFs.

Action: On November 3, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Lehigh to attempt an administrative settlement of the violations. The F&Os propose to require Lehigh to do the following:

- (1) Conduct weekly inspections of the Stage II vapor control system at the GDF for the next two ozone seasons (2010 and 2011), checking for leaks, malfunctions or damage to the system. Copies of records of these inspections and any repairs made must be submitted to Ohio EPA.

- (2) During the next two ozone seasons (2010 and 2011), perform static leak and A/L ratio tests at the GDF prior to the beginning (during March) of each ozone season and during August of each ozone season. The results of these tests must be submitted to Ohio EPA.
- (3) Pay Ohio EPA a civil penalty in the amount of \$15,000, of which \$12,000 of the civil penalty is due to Ohio EPA within 14 days after the effective date of the F&Os and \$3,000 is to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP within 30 days after the effective date of the F&Os.

The DAPC's Enhanced Enforcement Protocol penalty policy was used to calculate the civil penalty. **Case Continued**



Case Number: 2855	Dates:
Entity: Uzair, Inc., d.b.a. Lakeside Fuel	EAR: 09/09/09
Field Office: NEDO	DWL: N/A
Contact: Jim Kavalec/Tom Kalman	F&Os: 10/19/09 (prop.)
Attorney: Donald L. Vanterpool	Referral: N/A
	Dismissal: N/A

Background: Since January 2005, Uzair, Inc., d.b.a. Lakeside Fuel ("Uzair"), has owned and operated a gasoline dispensing facility ("GDF") located at 3389 North Ridge Road in Perry (Lake County), Ohio. This GDF is subject to the Stage II vapor control system requirements of OAC Rule 3745-21-09(DDD) and has such a system installed and operating. The GDF has a Permit-by-Rule status, which was obtained from Ohio EPA on April 26, 2007.

On February 9, 2009, Ohio EPA conducted an inspection at this GDF to determine compliance with the Stage II vapor control system annual static leak and air-to-liquid ("A/L") ratio tests. The static leak and A/L ratio tests were not performed due to the poor condition of the equipment on several dispensers. Specifically, the nozzles on dispensers 2 and 4 were smashed, the hoses on dispensers 3 and 4 needed to be replaced, and the dry break on dispenser 2 was leaking and needed to be replaced.

Retests were conducted on April 17 and June 3, 2009. During each of these retests, Uzair failed the static leak tests due to leaks in the Stage II vapor control system. By June 26, 2009, the necessary repairs were made and Uzair passed the static leak test.

Uzair was dispensing gasoline the entire time the Stage II vapor control system was not properly operating. The failure to properly install, operate, and maintain the vapor control system and 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 were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c).

In addition, Uzair failed to maintain required records demonstrating proof of attendance and completion of the training required by Ohio EPA, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(3)(a)(vi).

On September 9, 2009, NEDO submitted an Enforcement Action Request to Central Office for the violations.

Action: On October 19, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Uzair to attempt an administrative settlement of the violations. The F&Os propose to require Uzair to do the following:

- (1) Within 60 days after the effective date of the F&Os, submit documentation to Ohio EPA demonstrating the operator or local manager of the GDF has completed the training required by OAC Rule 3745-21-09(DDD)(3)(a)(vi).
- (2) Conduct weekly inspections of the Stage II vapor control system at the GDF for the next two ozone seasons (2010 and 2011), checking for leaks, malfunctions or damage to the system. Copies of records of these inspections and any repairs made must be submitted to Ohio EPA.
- (3) During the next two ozone seasons (2010 and 2011), perform static leak and A/L ratio tests at the GDF prior to the beginning (during March) of each ozone season and during August of each ozone season. The results of these tests must be submitted to Ohio EPA.
- (4) Pay Ohio EPA a civil penalty in the amount of \$13,675, of which \$10,940 of the civil penalty is due to Ohio EPA within 30 days after the effective date of the F&Os and \$2,735 is to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP within 30 days after the effective date of the F&Os.

The DAPC's Enhanced Enforcement Protocol penalty policy was used to calculate the civil penalty. **Case Continued**



ACTIONS & MINUTES APPROVED BY:



Bob Hodanbosi, Chief, DAPC

NEXT MEETING:
November 19, 2009
3:00 pm
DAPC Room C

PENDING AIR ENFORCEMENT COMMITTEE CASES

Total Unresolved Cases (100)

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
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 Afcose Group (asbestos)	NEDO	BZ/JK	02/14/08	08/06/08

Updated: 11/05/09

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
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
2810	Ellwood Engineered Castings Co. (HPV)	NEDO	DV/TT	02/25/09	03/13/09

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
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
2843	Bruewer Woodwork Mfg. Co. (FER case)	HAMCO	MG/UD	06/06/08	07/28/09

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
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
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, Cooke's Service, and Munson Corners Sunoco	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
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
2869	Bridgestone APM Company, Foam Products Division	NWDO	DV/EY	02/11/08	10/06/09
2870	Simon Excavating	NWDO	MG/		10/15/09
2871	Ali Mohammad, d.b.a. Marathon Oil 2992	NWDO	SF/JK	05/12/09	10/15/09
2872	Piper Excavation (asbestos and open burning)	NWDO	DV/		11/03/09
2873	Hanini Marathon - Superior	Cleve.	MG/EY		11/04/09

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

January

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
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Total for the month of January = 0

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

February

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
2736	Emanuel Hadgigeorgiou d.b.a. Society Dry Cleaners	3	Cleve.	JP	EY	DV	07/03/08						02/12/09
2747	Tri-county Concrere Co., Inc.	1	Akron	TK	MM	DV	08/19/08			Closed - NFA	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

March

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
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

April

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
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

May

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
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

June

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
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

July

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
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

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

July

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
2831	Aleris International, Inc./IMCO Recycling of Ohio, Inc./ Commonwealth Aluminum Concast of Ohio, Inc.	3	SEDO	TK	TK	MG	06/19/09						07/07/09
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

August

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2761	Cleveland Board of Education (C-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		8/4/09 (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			Closed-NFA	08/14/09		
2807	Hishan Judi, 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

August

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	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

September

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2666	James Conley	1	Akron	JP	EY	BZ	09/25/07			Closed-NFA	09/24/09		
2733	McCarthy Corporation	3	NWDO	TK	UD	SF	06/23/08			Unilateral F&O's		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	

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

September

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
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 Duchess	1	NEDO	TK	JK	SF	07/14/09		08/12/09 DWL	Closed - NFA	09/24/09		

Total for the month of September = 9

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

October

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
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
2710	Stein, Inc.	3	Cleve.	JP	EY	BZ	03/14/08					10/13/09	
2851	Joseph and Marie Eberz	3	Akron	TK	JK	SF	08/10/09					10/19/09	

Total for the month of October = 4

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

November

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2776	Circle K Midwest (GDFs 5204, 5209, 5318 amd 5320)	3	NEDO	TK	JK	MG	11/04/08					11/04/09	
2863	Circle K Midwest (GDFs 0059, 5217, 5557, and 5558)	3	HAMCO	TK	JK	MG	08/01/09					(11/04/09)	
2868	Endres Processing, LLC	3	NWDO	JP	JP	BZ	10/06/09						11/03/09

Total for the month of November = 3

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	*	
	* 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.					

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

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		03/06/06	
		\$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)			Civil penalty		
	OEPA	\$1,000	605635	05/14/07	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**	
	Develop and implement procedures to ensure QA/QC for all LDAR data		02/20/08	* Develops SOPs	** Training	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 09/10/09*
	Bus Fund	\$2,400	686991	10/31/08	Y 04/23/09**
* Paid the \$9,600 plus \$1,095.45 in interest to AGO Revenue Recovery. AGO took \$1,069.55 for its collection efforts.					
** AGO took \$240 of this amount for its collection efforts.					

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		10/19/09
		\$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			
	Cairo	(365 days after acceptance of short-term limit)			
Submit report re: how compliance will be achieved:	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
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 \$21762.50 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	

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 2011			09/14/10	
				04/14/11	

Eramet Marietta, Inc. (10/07/09)	Civil penalty: (\$30,000)				
	OEPA	\$24,000		10/21/09	10/13/09
	Bus Fund	\$6,000		11/06/09	10/13/09
	Submit copy of inspection & testing schedule			11/06/09	
	Submit documentation of de-registering of formerly covered processes			11/06/09	

Stein, Inc. (10/13/09)	Civil penalty: (\$50,000)				
	Bus Fund	\$10,000		11/13/09	10/23/09
	OEPA	\$10,000		05/13/10	
		\$10,000		08/13/10	
		\$10,000		11/13/10	
	\$10,000		02/13/11		

Joseph and Marie Eberz (10/19/09)	Civil penalty: (\$500)			11/19/09	

CertainTeed Corp (10/19/09 - CO)	Civil penalty: (\$230,000)				
	OEPA	\$184,000		11/19/09	
	Bus Fund	\$ 46,000		11/19/09	
	Submit Title V permit appl.			w/i 90 days of issuance of PTI	
	Submit plan for measuring OC content of stone			01/19/10	
Submit FERs for 1993-1996			04/19/10		

Aleris International, Inc., et. Al. (10/30/09 - CO)	Civil penalty: (\$334,545)			when U.S. Bankruptcy court for District of Delaware decides	
	Install load cells to weigh flux			04/29/10	
	Submit Capture and Collection System Improvement Plan			11/29/09	
	Complete all improvements described in CCSIP			04/29/10	
	Measure fan RPM			01/29/10	
	Measure static pressure of air curtain			01/29/10	
	Perform compliance tests			10/29/10	
	Submit test results			12/29/10	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Aleris Int'l, Inc., et. Al. (Con't)	Submit HCI PTE analysis		12/29/10		
	Conduct additional compliance tests		03/29/10		
	Comply with all requirements of Subparts A and RRR		09/29/10		

Circle K Midwest	Civil penalty: (\$100,000)				
(GDFs 5204, 5209, 5318, 5320, 5557, 5558, 0059, and 5217)	OEPA	\$80,000	12/04/09		
(11/04/09)	Bus Fund	\$20,000	12/04/09		
	Perform static leak & A/L ratio tests at each GDF		03/31/10		
			08/31/10		
			03/31/11		
			08/31/11		

- ** 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

November 4, 2009

CERTIFIED MAIL

Ms. Sherry L. Hesselbein, Esq.
Ulmer Berne, LLP.
88 East Broad Street
Suite 1600
Columbus, Ohio 43215-3581

Re: Final Findings and Orders for:
Stage II vapor control rule violations at
eight Circle K Midwest gasoline
dispensing facilities in northeast and
southwest Ohio

Dear Ms. Hesselbein:

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 # 02 and 14)
Marcus Glasgow, Legal Office
Jim Kavalec, DAPC
Keith Riley/Tim Fischer, NEDO
Kerri Castlen, HAMCO
Kevin Merritt, Circle K Midwest
Jonathan Ross, Circle K

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

to the requirements of Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD) concerning Stage II vapor control systems.

2. Hamilton County Department of Environmental Services ("HCDOES") is a contractual agent for Ohio EPA in Butler County, Hamilton County, and Clermont County for the administration of Ohio's air pollution rules and laws.

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.

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 the vapor control system is installed, operated, and maintained in accordance with the manufacturer's specifications and the applicable 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 California Air Resources Board ("CARB") certification. As part of the required CARB testing for the above-mentioned GDF(s), 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. OAC Rule 3745-21-09(DDD)(2)(d) requires, in part, the owner or operator of a GDF to perform and demonstrate compliance with the dynamic pressure performance test at intervals not to exceed five years.

8. OAC Rule 3745-21-09(DDD)(3)(a)(vi) states, in part, that any owner or operator of a GDF subject to the requirements of paragraph (DDD)(1) shall maintain records demonstrating proof of attendance and completion of training required by Ohio EPA for the operator or local manager of the GDF.

9. Respondent employs Tanknology, Inc. ("Tanknology") to perform the required CARB testing at the subject GDFs. Pursuant to its agreement with Respondent, Tanknology scheduled and performed all tests referenced in these Orders.

10. Respondent employs Petro-Com, Corp. ("Petro-Com"), whose business address is 32523 Lorain Road, North Ridgeville, Ohio 44039, to perform maintenance of the Stage II vapor control systems at the GDFs so that the Stage II vapor control systems are in compliance with OAC Rule 3745-21-09(DDD) and the applicable permits to install.

Circle K #5204

11. On September 9, 2004, a Permit to Install ("PTI") 02-19863 was issued to Respondent for Circle K #5204 (Ohio EPA facility ID number 0204030453). On August 23, 2004, a Permit to Operate ("PTO") application was submitted to Ohio EPA. PTI 02-19863 and OAC Rule 3745-21-09(DDD) require Respondent to comply with the requirements for Stage II vapor control systems at this facility. On February 13, 2009, Respondent submitted a written modification for a Permit-by-Rule ("PBR") to Ohio EPA for this GDF.

12. On April 25, 2007, Respondent conducted an annual Stage II compliance test at this facility. Respondent failed the A/L ratio test for dispensers 1, 2, 5, and 7. Respondent was operating these dispensers prior to and after the failed A/L ratio test. The failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) for dispensers 1, 2, 5, and 7 while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle was a violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c). On May 14, 2007, dispensers 1, 2, 5, and 7 passed the A/L ratio retest.

13. On May 13, 2008, Respondent conducted an annual Stage II compliance test at this facility. As part of the Stage II compliance test, an A/L ratio test and static leak test were performed. Based upon the results of the tests, the static leak test could not be performed due to low gasoline volume. The A/L ratio test failed for dispenser numbers 2 (regular only), 7 (all grades), 8 (all grades) and 9 (premium only). Respondent was operating these dispensers prior to and after the failed A/L ratio test. The failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) for dispensers 2, 7, 8 and 9 while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle was a violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c).

14. On September 3, 2008, Respondent conducted a static leak test to determine compliance with OAC Rule 3745-21-09(DDD). The static leak test failed due to leaking vacuum pump motors in dispensers 1-2 and 9-10. The A/L ratio test was not conducted due to the leaking vacuum pump motors. Respondent was operating these dispensers prior to and after the failed static leak test and A/L ratio test. Operating the vapor control system with a malfunctioning vacuum pump motor and failing 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 were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). In addition, the Director has determined that Respondent's failure to complete a full successful passing static leak test and A/L ratio test within one year from the last test (May 14, 2007) was in violation of OAC Rule 3745-21-09(DDD)(2)(f) and ORC § 3704.05(G). By letter dated September 16, 2008, Ohio EPA notified Respondent of the violations of OAC Rule 3745-21-09(DDD).

15. On September 29, 2008, Respondent conducted another retest at the facility. The static leak test passed. The A/L ratio test passed for all dispensers except dispenser 10. The vacuum pump motor on dispenser 10 was leaking and needed to be replaced. Respondent was operating this dispenser prior to and after the failed A/L ratio test. Operating the vapor control system with a malfunctioning vacuum pump motor and failing to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) for dispenser 10 while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c).

16. On October 28, 2008, Respondent retested dispenser 10 to determine compliance with OAC Rule 3745-21-09(DDD). The vacuum motor on dispenser 10 had been repaired and dispenser 10 passed the retest.

17. On February 19, 2009, Respondent conducted the annual and five-year Stage II compliance tests at this GDF. The static leak, A/L ratio and dynamic pressure performance test all passed. At the inspection, Respondent was not able to produce records demonstrating proof of attendance and completion of the training for one employee as required by OAC Rule 3745-21-09(DDD)(3)(a)(vi) and ORC § 3704.05(G) because the employee had just passed the course and the training certificate had not been issued yet. A copy of the training certificate was provided to Ohio EPA on September 15, 2009. By letter dated June 22, 2009, Ohio EPA notified Respondent of this violation.

Circle K #5318

18. On June 30, 1992, PT1 02-6550 was issued for this GDF (Ohio EPA facility ID number 0247080866). On January 28, 1992, a PTO application was submitted for this facility. OAC Rule 3745-21-09(DDD) requires Respondent to comply with the requirements for Stage II vapor control systems at this facility.

19. On May 14, 2008, Respondent conducted an annual Stage II compliance test at this facility. Upon arrival, Ohio EPA noted that the regular grade for dispenser 4 and all three grades for dispenser 6 were bagged off while all other dispensers were in use. As part of the Stage II compliance test, a static leak test was conducted and failed due to a leak in a drop tube. The A/L ratio test was not conducted due to this leak. Respondent was dispensing gasoline from other dispensers at this GDF prior to and after Respondent failed the static leak test. 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 was a violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c). In addition, Respondent failed to maintain records demonstrating proof of attendance and completion of the training required by Ohio EPA, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(vi) and ORC § 3704.05(G).

20. On September 2, 2008, Respondent attempted to have the dispensers retested. At this time, the static leak test and the A/L ratio test could not be conducted because the vacuum pump motors on all the dispensers were leaking and needed to be replaced. During this timeframe, Respondent continued to dispense gasoline into motor vehicles. Operating the vapor control system with malfunctioning vacuum pump motors and failing 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 were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). The Director has determined that Respondent's failure to complete a full successful passing test for dispensers 1 through 6 within one year from the last test (June 7, 2007) was in violation of OAC Rule 3745-21-09(DDD)(2)(f) and ORC § 3704.05(G).

21. On April 8, 2009, Respondent conducted and passed static leak and A/L ratio retests at this GDF. This test was not witnessed by Ohio EPA personnel.

22. On April 21, 2009, Respondent conducted a five-year Stage II compliance test at this GDF. The static leak test and the dynamic pressure performance test passed, while the A/L ratio test for dispenser 5 failed. Dispenser 5 failed due to a malfunctioning vacuum pump motor. Respondent was dispensing gasoline prior to and after the failed A/L ratio test. Operating the vapor control system with a malfunctioning vacuum pump motor and failing 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 were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c).

23. On May 11, 2009, Respondent conducted a retest at this GDF. The dynamic pressure performance test passed but dispenser 5 once again failed the A/L ratio test because it had no vacuum. Respondent was dispensing gasoline prior to and after the failed A/L ratio test. Operating the vapor control system with a malfunctioning vacuum pump motor and failing 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 were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On June 11, 2009, dispenser 5 passed an A/L ratio retest.

24. On May 22, 2009, Respondent submitted, to Ohio EPA, a certificate of training for this GDF's manager, demonstrating proof of attendance and completion of the training required by OAC Rule 3745-21-09(DDD)(3)(a)(vi).

Circle K #5209

25. On February 8, 1984, PTI 02-1377 was issued for this GDF (Ohio EPA facility ID number 0204010276). In 1995, Stage II vapor control equipment was installed at this facility to comply with Stage II vapor control systems requirements as specified in OAC Rule 3745-21-09(DDD). On September 16, 1994, a PTO was issued for this facility which expired on September 15, 1997. On May 4, 2009, Respondent submitted a written modification for a PBR, to Ohio EPA, for this GDF.

26. On May 12, 2008, Respondent conducted an annual Stage II compliance test at this facility. The static leak test passed. The A/L ratio test was conducted and failed on dispenser 2's premium grade and dispenser 4's premium grade. Dispenser 2's premium grade had been bagged off prior to the test. Respondent was operating dispenser 4 prior to and after it failed the A/L ratio test. The failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) for dispenser 4 while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle was a violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c). Also, Respondent's failure to complete a full successful passing test for dispensers 2 and 4 within one year from the last test (April 25, 2007) was in violation of OAC Rule 3745-21-09(DDD)(2)(f) and ORC § 3704.05(G).

27. On September 3, 2008, a retest was conducted. The A/L ratio test for dispenser 2 passed, but dispenser 4 failed the A/L ratio retest, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c). By letters dated September 4 and September 16, 2008, Ohio EPA notified Respondent of the violations of OAC Rule 3745-21-09(DDD).

28. On September 29, 2008, dispenser 4 passed a retest for the A/L ratio test. By letter dated October 9, 2008, Ohio EPA acknowledged the return to compliance.

Circle K #5320

29. On July 6, 2000, PTI 02-14068 was issued for this GDF (Ohio EPA facility ID number 0247020966). PTI 02-14068 and OAC Rule 3745-21-09(DDD) require Respondent to comply with the requirements for Stage II vapor control systems at this facility. On May 4, 2009, Respondent submitted a PBR, to Ohio EPA, for this GDF.

30. On March 15, 2007, Respondent conducted an annual Stage II compliance test at this facility. Respondent failed the static leak test and the A/L ratio test for dispenser 3. Respondent was dispensing gasoline into motor vehicles prior to and after the failed static leak test and failed A/L ratio test for dispenser 3. 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 was a violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c). On April 11, 2007, dispenser 3 passed the A/L ratio test and on May 16, 2007, the facility passed the static leak test.

31. On February 25, 2008, Respondent conducted an annual Stage II compliance test at this Facility. As part of the Stage II compliance test, the static leak test failed due to a leaking vacuum pump motor. The A/L ratio test passed. This test was not witnessed by Ohio EPA personnel. Operating the vapor control system with a malfunctioning vacuum pump motor and failing 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 were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c).

32. On March 24, 2008, Respondent conducted a retest at the facility. The static leak test passed, however the A/L ratio test on dispensers 15 and 16 failed. By letter dated May 20, 2008, Ohio EPA notified Respondent of the violations of OAC Rule 3745-21-09(DDD).

33. On June 9, 2008, Respondent conducted another retest at the facility. The A/L ratio test passed for dispensers 15 and 16. By letter dated June 23, 2008, Ohio EPA acknowledged the return to compliance.

34. On February 9, 2009, Respondent conducted an annual Stage II compliance test at this GDF. The static leak test passed but the A/L ratio test could not be performed because Tanknology had the wrong equipment. On April 14, 2009, an A/L ratio test was conducted and all dispensers passed.

Circle K #5557

35. On May 28, 2008, Respondent attempted to conduct the annual Stage II compliance test at this GDF but could not test the vapor control system due to excess ullage. Then, during a July 11, 2008 inspection, the Hasstech vapor control system was turned off while gasoline was still being dispensed. A retest was performed on July 18, 2008. At this time, Respondent passed the static leak test but failed the A/L ratio test for dispensers 3, 6, 9, 13 and 14. Respondent was dispensing gasoline prior to and after the failed A/L ratio test. 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 complete a full successful passing static leak test within one year from the last passing test (May 28, 2007) were violations of ORC § 3704.05(G) and OAC Rules 3745-21-09(DDD)(1)(b), (c), and (2)(f). On September 10, 2008, dispensers 3, 6, 9, 13 and 14 passed a retest.

36. On April 17, 2009, Respondent conducted the annual Stage II compliance test for this GDF. The static leak test failed and the A/L ratio test failed for dispensers 13, 14 and 16 due to leaking vacuum pump motors. Respondent was dispensing gasoline prior to and after the failed static leak and A/L ratio tests. Operating the vapor control system with a malfunctioning vacuum pump motors and failing 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 were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On July 16, 2009, Respondent conducted and passed the static leak and A/L ratio retests at this GDF.

Circle K #5558

37. On January 2, 2008, Respondent conducted an annual Stage II compliance test at this GDF. The static leak test failed because of a leaking spill bucket drain and the A/L ratio test was not conducted. On July 25, 2008, Respondent was unable to conduct a static leak test or A/L ratio retest at this GDF because the Hasstech vapor control system was turned off since it was not working. Respondent was dispensing gasoline prior to and after the failed static leak and A/L ratio tests. The failure to properly install, 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 were violations of ORC § 3704.05(G) and OAC Rules 3745-21-09(DDD)(1)(b) and (c).

38. On September 8, 2008, Respondent conducted a retest at this GDF. The static leak test passed; however, all dispensers failed the A/L ratio test. Respondent was dispensing gasoline prior to and after the failed A/L ratio test. The failure to properly install, 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 were violations of ORC § 3704.05(G) and OAC Rules 3745-21-09(DDD)(1)(b) and (c).

39. On February 23, 2009, Respondent conducted another retest at this GDF. At this time, the static leak test failed due to a leaking vapor pipe joint and the A/L ratio test was not conducted due to the static leak test failure. Respondent was dispensing gasoline prior to and after the failed static leak and A/L ratio tests. The failure to properly install, 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 complete a full successful passing static leak test and A/L ratio test within one year from the last test (January 2, 2007) were violations ORC § 3704.05(G) and OAC Rules 3745-21-09(DDD)(1)(b), (c), and (2)(f). On June 22, 2009, the static leak and A/L ratio retests passed.

Circle K #0059

40. On February 26, 2009, Respondent conducted an annual Stage II compliance test at this GDF. The A/L ratio test failed for dispensers 2, 3, 4 and 8. Dispensers 5, 6, and 7 were not pumping and could not be tested. Respondent was dispensing gasoline prior to and after the failed A/L ratio test. The failure to properly install, 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 were violations of ORC § 3704.05(G) and OAC Rules 3745-21-09(DDD)(1)(b) and (c).

41. On March 3, 2009, Respondent conducted an A/L ratio retest and dispensers 2, 3, 4, 5, 6, 7 and 8 passed.

42. On June 23, 2009, Respondent conducted an A/L ratio retest and all dispensers passed except dispenser 4 due to no vacuum. This dispenser was taken out of service at the time of the inspection. On June 29, 2009, HCDOES drove by this GDF and observed dispenser 4 being used without passing the A/L ratio test. 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 was a violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c). On July 20, 2009, dispenser 4 passed an A/L ratio retest.

Circle K #5217

43. On March 2, 2009, Respondent conducted the annual Stage II compliance test for this GDF. The static leak test passed; however, the A/L ratio test failed for dispensers 1, 2, and 4. On March 10, 2008, an A/L ratio retest was conducted and dispensers 1 and 4 passed the A/L ratio retest while dispenser 2 failed due to a bad vacuum pump motor. Respondent was dispensing gasoline prior to and after the failed A/L ratio tests. The failure to properly install, 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 was a violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c).

44. On July 2, 2009, another retest was conducted and dispensers 1, 2 and 4 failed the A/L ratio test. Dispensers 1, 2 and 4 were using nozzles that were not certified by CARB for the Stage II vapor control system being used at this GDF. Respondent was dispensing gasoline prior to and after the failed A/L ratio tests. Operating the vapor control system using improper equipment and failing 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 was a violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). By letter

dated July 15, 2009, HCDOES issued Respondent a warning letter for failing to conduct a retest at this GDF.

45. On July 31, 2009, Respondent conducted an A/L ratio retest and dispensers 1, 2, and 4 passed.

46. On August 6, 2009, Respondent conducted an A/L ratio retest at this GDF. Dispensers 1 and 3 failed the A/L ratio retest. Respondent was dispensing gasoline prior to and after the failed 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 was a violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c). On August 27, 2009, all dispensers passed the A/L ratio retest. An Ohio EPA inspector was not present for the August 27, 2009 retest. On August 31, 2009, dispensers 1 and 3 passed the A/L ratio retest, and an Ohio EPA inspector was present for the test.

47. 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. 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 systems at Circle K #5204, Circle K #5209, Circle K #5318, Circle K #5320, Circle K #5557, Circle K #5558, Circle K #0059, and Circle K #5217, checking for leaks, malfunctions or damage to the systems 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 or the local air agency during the middle and at the end of the 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.

2. 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 and pass static leak and A/L ratio tests at Circle K #5204, Circle K #5209, Circle K #5318, Circle K #5320, Circle K #5557, Circle K #5558, Circle K #0059, and Circle K #5217, prior to the beginning (during March) of each ozone season and during August of each ozone

season. Respondent shall notify Ohio EPA or the local air agency of such testing at least 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.

3. Respondent shall pay the amount of one hundred thousand dollars (\$100,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) 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 eighty thousand dollars (\$80,000) 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

4. In lieu of paying the remaining twenty thousand dollars (\$20,000) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$20,000 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 \$20,000. 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.

5. 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

6. Should Respondent fail to fund the SEP within the required time frame set forth in Order 4, Respondent shall immediately pay to Ohio EPA \$20,000 of the civil penalty in accordance with the procedures in Order 3.

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 duty 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:

For Circle K #5204, Circle K #5318, Circle K #5209, and Circle K #5320 to:

Ohio Environmental Protection Agency
Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087

Attn: Tim Fischer

For Circle K #5557, Circle K #5558, Circle K #0059, and Circle K #5217 to:

Hamilton County Department of Environmental Services
250 William Howard Taft Road
Cincinnati, Ohio 45219
Attn: Kerri Castlen

and for all GDFs to:

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

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 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

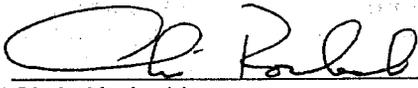
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



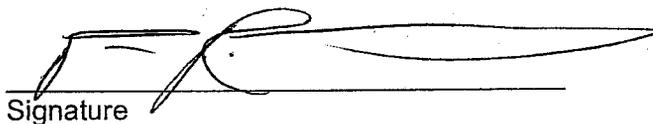
Chris Korleski
Director

11/2/09

Date

AGREED:

Circle K Midwest



Signature

10/28/09

Date

PAUL RODRIGUEZ

Printed or Typed Name

Vice President

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

NOV 03 2009

The Honorable Richard Cordray
Attorney General of Ohio
Office of the Attorney General
Environmental Enforcement Section
State Office Tower, 25th Floor
30 East Broad Street
Columbus, Ohio 43215

Re: Endres Processing, LLC

Dear Mr. Cordray:

Pursuant to ORC Section 3704.06, I hereby request that you initiate all necessary legal and/or civil actions against the above-subject party, and all other appropriate parties, and seek appropriate civil penalties for violations of Chapter 3704 of the Ohio Revised Code and regulations adopted thereunder. Enclosed is a copy of the Division of Air Pollution Control ("DAPC's") enforcement file for this matter.

Thank you for your assistance in this matter. Any questions you may have should be directed to John Paulian of the Division of Air Pollution Control's Enforcement Section (644-4832). He and Jim Orlemann, DAPC Enforcement Coordinator, should be kept apprised of the status of this matter and any action taken with regard to it.

Sincerely,

Chris Korleski
Director

xc: Gregg Bachmann, AGO
Rob James, AGO
Jim Orlemann, DAPC
John Paulian, DAPC
Tom Kalman, DAPC
Bryan Zima, Legal
Don Waltermeyer, NWDO
Jennifer Jolliff, NWDO

Enclosures
CK/JP/jp

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



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

OCT 19 2009

CERTIFIED MAIL

Mr. Brad Walls
Safety Coordinator
Ariel Corporation
35 Blackjack Road
Mt. Vernon, Ohio 43050

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

Dear Mr. Walls:

My staff has informed me of the violations of the permit to install ("PTI") and the Ohio Administrative Code ("OAC") that occurred at Ariel Corporation's ("Ariel") facility located at 35 Blackjack Road in Mt. Vernon, Ohio.

Specifically, Ariel violated OAC Rule 3745-21-09(U)(2)(e)(iii) by exceeding the coating usage limit in emissions unit K003 and also violated the reporting and record keeping requirements in PTI 01-08607.

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

The 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

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

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.

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 try to negotiate a mutually acceptable settlement, 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 the 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/EY/ey

xc: Jim Orlemann, DAPC
Eric Yates, DAPC
Marc Glasgow, Legal Office
Adam Ward, CDO
John McGreevy, CDO

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>.

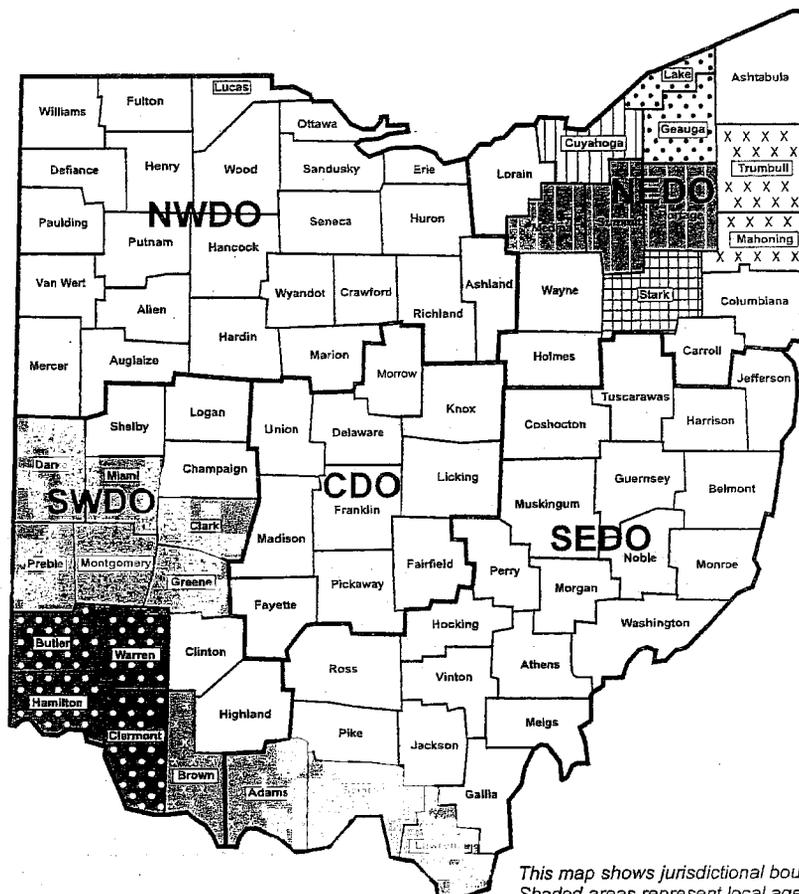
District Office and Local Air Agency Addresses and Phone Numbers

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

 **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

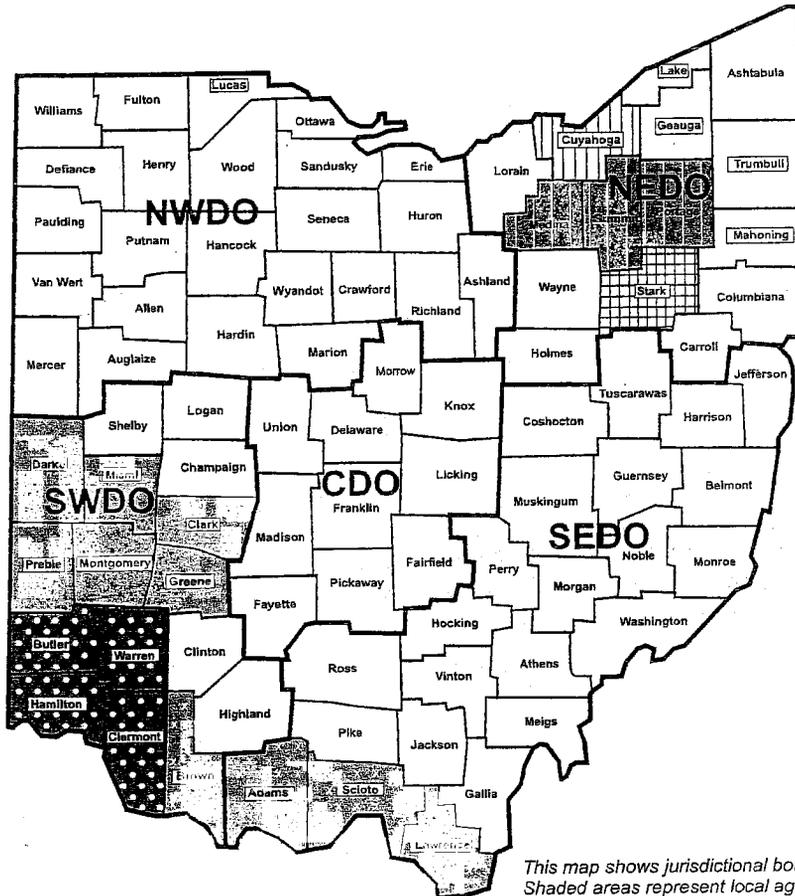
 **Bert Mechenbier, Supervisor ***
Lake County General Health District
Air Pollution Control
33 Mill Street
Painesville, Ohio 44077
(440) 350-2543 FAX (440) 350-2548
e-mail: BMechenbier@lcghd.org

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



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Columbus, OH 43215
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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.
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(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 Erievue 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
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(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
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e-mail: cory.chadwick@hamilton-co.org

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.

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Ariel Corporation	:	<u>Director's Final Findings</u>
35 Blackjack Road	:	<u>and Orders</u>
Mount Vernon, Ohio 43050	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Ariel Corporation ("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 a manufacturing facility located at 35 Blackjack Road in Mount Vernon (OEPA facility ID# 0142000060). At the facility Respondent designs and manufactures large compressors used in the natural gas gathering, pipeline, and gas storage industries.

2. ORC Section 3704.05(G) states that no person shall violate any order, rule, or determination of the Director.

3. ORC Section 3704.05(C) states that no person who is the holder of a permit issued under section (F) or (G) of section 3704.03 of the Revised Code shall violate any of its terms.

4. On May 23, 2002, permit to install ("PTI") 01-08607 was issued for emissions unit K003 (paint booth).

5. On April 2, 2008, Ohio EPA Central District Office conducted an inspection of Ariel's facility and also completed a review of the records required by PTI 01-08607.

6. PTI 01-08607 and Ohio Administrative Code ("OAC") Rule 3745-21-09(U)(2)(e)(iii) limit the amount of coatings allowed in emissions unit K003 to ten (10) gallons per day.

7. On at least 67 days between February 2007 and March 2008, Respondent exceeded the ten gallons per day limit of coating usage, in violation of the terms and conditions of PTI 01-08607 and OAC Rule 3745-21-09(U)(2)(e)(iii).

8. PTI 01-08607 requires that deviation reports be submitted within 45 days of any daily record showing the use of more than the applicable maximum daily coating usage limit of 10 gallons per day.

9. Respondent failed to submit deviation reports identifying the 67 days that the maximum daily coating usage limit of 10 gallons per day was exceeded, in violation of the terms and conditions of PTI 01-08607 and ORC Section 3705.05(C).

10. PTI 01-08607 requires that Respondent keep records of the total volatile organic compounds ("VOC") emission rate on a daily basis for all coatings and cleanup materials in pounds per day.

11. Since at least February 2007 and continuing to July 2009, Respondent failed to maintain records of the total VOC emission rate on a daily basis for all coatings and cleanup materials, in pounds per day, in violation of PTI 01-08607.

12. Respondent has since installed monitoring equipment that will track coating usage to the ounce and will allow Respondent meet the record keeping requirements in PTI 01-08607.

13. On February 12, 2009, Ohio EPA Central District Office sent a notice of violation to Respondent for the above violations.

14. 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 twenty-seven thousand five hundred dollars (\$27,500) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) 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-two thousand dollars (\$22,000) 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

2. In lieu of paying the remaining five thousand five hundred dollars (\$5,500) of civil penalty, Respondent shall within 30 days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$5,500. 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. 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
P.O. Box 1049
Columbus, OH 43216 - 1049

4. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$5,500 of the civil penalty in accordance with the procedures in Order 2.

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 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: Adam Ward

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:

Ariel Corporation

Signature

Date

Printed or Typed Name

Air Civil Penalty Worksheet

Ariel Corporation

A. Benefit Component: (enter from attached computer calculation)		NA	There is no economic benefit associated with this violation.
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:	<u>\$20,000</u>		Respondent failed to submit deviation reports required by PTI 01-08607 April 2008 to July 2009. Respondent failed to maintain records of VOC emissions in pounds per day for emissions unit K003 as required in PTI 01-08607 from at least April 2008 to July 2009. (15 months)
2. Importance to regulatory scheme:	<u>\$5,000</u>		Respondent exceeded the coating usage requirement of 10 gallons per day in PTI 01-08607 on 67 separate days between February 2007 and March 2008.
	<u>\$5,000</u>		Respondent failed to submit deviation reports required by PTI 01-08607 from at least April 2008 to July 2009.
	<u>\$5,000</u>		Respondent failed to maintain records of VOC emissions in pounds per day for emissions unit K003 as required in PTI 01-08607.
3. Size of violator:	<u>\$20,000</u>		Annual sales are approximately \$80,000,000 per data provided by Reference USA. With net worth being defined as 20% of annual sales, Respondent's net worth is \$16,000,000.
Total Gravity Component:		<u>\$55,000</u>	
Preliminary Deterrence Amount: (sum of benefit and gravity components)		<u>\$55,000</u>	
C. Flexibility-Adjustment Factor:			
1. Degree of willfulness or negligence: (total gravity component times an augmentation percentage)	<u>(\$16,500)</u>		30% mitigation for cooperation.
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>(\$11,000)</u>		20% mitigation since it is unlikely that actual daily VOC emission violations occurred and the fact that Respondent has spent considerable money to install new machinery to track coating usage.
All augmentation (+) and mitigation (-) amounts added: (if negative, cannot exceed total gravity component)		<u>(\$27,500)</u>	
D. Initial Minimum Settlement Amount: [preliminary deterrence amount + or - sum of flexibility adjustment factors plus administrative component (A+B+C+D)]		<u>\$27,500</u>	



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

NOV 03 2009

CERTIFIED MAIL

Mr. David Hrinak
Lehigh Gas Corporation
1425 Mountain Drive North
Bethlehem, PA 18015

Re: Proposed Director's Final Findings and Orders for the Lehigh Gas Corporation's operation of the Vermillion Valley and Middle Ridge Service Plazas

Dear Mr. Hrinak:

My staff has informed me of the violations of Ohio Administrative Code Rule 3745-21-09(DDD) and ORC § 3704.05(G) associated with Lehigh Gas Corporation's operations at the Ohio Turnpike Commission's Vermillion Valley and Middle Ridge Service Plazas located in Amherst. It is my understanding that Lehigh Gas Corporation is operator for the Ohio Turnpike Commission at these GDFs. I would like to express my concern regarding the violations of the Stage II vapor control system requirements at the above-mentioned gasoline dispensing facilities ("GDFs") located in an area that is in nonattainment of the National Ambient Air Quality Standard for ozone.

Compliance with Stage II vapor control system requirements is an important element in our State Implementation Plan and in avoiding continued nonattainment of the ambient air quality standard. In addition, it is my understanding that all violations have been corrected.

In order to resolve this matter, I am proposing to issue the enclosed Findings and Orders prepared by my staff, which include a provision for civil penalties for the settlement of claims resulting from Lehigh Gas Corporation's violations of the State's air pollution control laws. Also, enclosed is an administrative enforcement process guide to facilitate your review of the proposed Findings and Orders. 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 document summarize a proposed settlement, I consider them to be inadmissible for any purpose in any enforcement action the State may take if settlement cannot be reached.

Please note that the proposed Findings and Orders include a provision for 20 percent of the total civil penalty amount to go toward the funding of a supplemental environmentally beneficial project involving 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

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

Ohio EPA is an Equal Opportunity Employer

Mr. David Hrinak
Lehigh Gas Corporation
Page 2 of 2

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.

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 Stephen Feldmann of the Ohio EPA Legal Office, at (614) 644-3037. If he does not hear from Lehigh Gas Corporation, 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 Lehigh Gas Corporation 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
Stephen Feldmann, Legal Office
Tim Fischer, DAPC NEDO

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

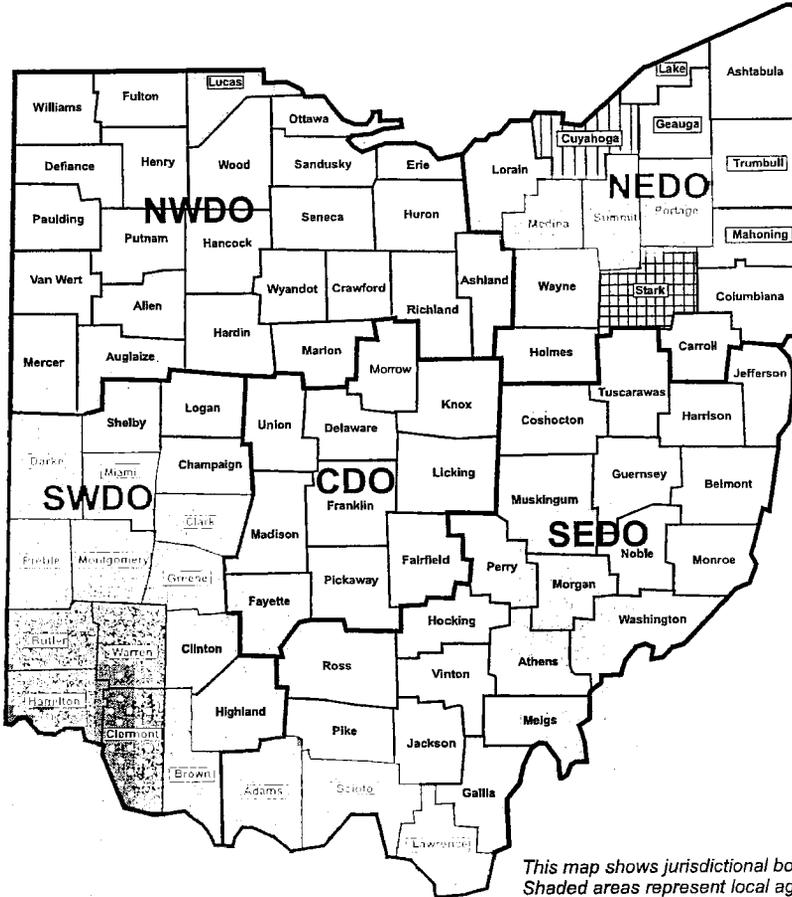
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about 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

 **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

 **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

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 emission control equipment 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 (NOx) 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 filtration efficiency of crankcase filters averages between 80% and 97%. 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.

Only control equipment found on USEPA's "Verified Technology List" may be purchased and installed (see (4) below for further details).

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

Only school buses that meet the following criteria will 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 driven not less than 5,000 miles per year.
- d. The school bus model year must be 1994 or newer.

4. Which types of control equipment would be acceptable for installation?

The USEPA publishes a "Verified Technology List." Only control equipment found 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. A copy of this list can be accessed at the following web site:

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

This table summarizes all the diesel retrofit technologies that the USEPA has approved for use in engine retrofit programs. The table shows the percent reduction (from verified or tested levels) that USEPA will recognize for emission reductions for each technology.

5. Is there a special type of fuel that must be used with the control equipment?

In some cases, 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.

Diesel oxidation catalysts and crankcase filtration systems do not require special fuel.

6. What costs are associated with the installation and operation of the emission controls?

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.

The estimated cost to retrofit each bus with a diesel oxidation catalyst ranges from \$600 to \$2,000. Installation takes approximately one to three hours to complete. Diesel oxidation catalysts do not require annual maintenance and will operate with regular diesel fuel.

7. 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 retrofit installations. 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 of \$5,000 or greater), 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 has established for the retrofitting of school buses.

8. How will the school systems receive the SEP monies for the diesel retrofit installations?

A school system that desires to participate in the retrofit program must apply to Ohio EPA to receive funding to purchase and install USEPA approved control equipment. Once or twice per year, the Ohio EPA will solicit applications from the eligible school systems. In the application, an eligible school system must describe the proposed project, providing details such as the number and ages of the buses to be retrofitted, the type of equipment that will be purchased and installed (must be on the USEPA-published list of "Verified Retrofit Technologies"), a schedule for installation of the equipment, and a detailed cost breakdown. Ohio EPA will evaluate each application and provide funding to applicant school systems that meet the criteria specified by Ohio EPA's regulations. Priority will be given to those applicants that are located in a nonattainment county for PM 2.5 and/or that include a commitment to implement an anti-idling program.

9. What oversight will be provided by the Ohio EPA to ensure that the diesel retrofit control equipment is 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 control equipment has been correctly installed, that the diesel particulate filters are being maintained properly, and that the monies are being spent appropriately.

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Lehigh Gas Corporation	:	<u>Director's Final Findings</u>
1425 Mountain Drive North	:	<u>and Orders</u>
Bethlehem, PA 18015	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Lehigh Gas Corporation ("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 facilities 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 regulations promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent operates two gasoline dispensing facilities ("GDFs") for the Ohio Turnpike Commission located at Milepost 139 East, Amherst, Ohio (Vermillion Valley Service Plaza) and Milepost 139 West, Amherst, Ohio (Middle Ridge Service Plaza). These GDFs are subject to the requirements of Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD) concerning Stage II vapor control systems.

2. On March 10 and November 21, 2008, permit-by-rules ("PBRs") were submitted, to Ohio EPA, for the Middle Ridge and Vermillion Valley Service Plazas pursuant to OAC Rule 3745-31-03(A)(4). OAC Rule 3745-31-03(A)(4) provides for exemptions from the requirement to obtain a permit-to-install for certain air contaminant sources. However, these exemptions are valid only as long as the owner or operator complies with all of the PBR general provisions, meets qualifying criteria defined in the applicable PBR, and complies with all of the requirements under the applicable PBR specific provisions.

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)(d) requires, in part, the owner or operator of a GDF to perform and demonstrate compliance with the dynamic pressure performance test at intervals not to exceed five years.

7. 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 GDFs, 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.

Vermillion Valley Service Plaza

8. On July 20, 2007, Respondent conducted an annual Stage II compliance test at this GDF. The static leak test failed due to a spill bucket leak on tank #6 and the A/L ratio test was not conducted due to the static leak test failure. Respondent was transferring gasoline into motor vehicles prior to and after the failed static leak test. The failure to properly install, operate, and maintain the vapor control system and 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 were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). By letter dated August 27, 2007, Ohio EPA notified Respondent of these violations.

9. On September 27, 2007, Respondent conducted a static leak and A/L ratio retest at this GDF. The static leak test passed but the A/L ratio failed for dispensers 3, 5, 9 and 13. Respondent was transferring gasoline into motor vehicles prior to and after the failed A/L ratio test. The failure to properly install, operate, and maintain the vapor control system and 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 were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On October 18, 2007, Respondent conducted and passed an A/L ratio retest.

10. On June 16, 2008, Respondent conducted and passed the annual Stage II static leak test and A/L ratio tests and on July 14, 2008, Respondent conducted and passed the five year dynamic pressure performance test.

11. On May 20, 2009, Respondent conducted the annual Stage II compliance tests at this GDF. The static leak test passed but the A/L ratio test failed for dispensers 4, 5 and 6 due to low or no vacuum. Respondent was transferring gasoline into motor vehicles prior to and after the failed A/L ratio test. The failure to properly install, 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 were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On July 29, 2009, Respondent conducted and passed a retest at this GDF.

Middle Ridge Service Plaza

12. On June 16, 2008, Respondent conducted an annual Stage II compliance test at this GDF. The static leak test failed due to leaking drop tubes and A/L ratio test failed for dispensers 9, 10, 18 and 25. Respondent was operating these dispensers 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 ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On July 14, 2008, Respondent conducted and passed a retest at this GDF.

13. On May 19, 2009, Respondent conducted an annual Stage II compliance test at this GDF. The static leak test failed due to leaks in the Stage II vapor control system and the A/L ratio test was not attempted due to these leaks. In addition, hoses on nine dispensers were in poor condition and needed to be replaced and several dry break caps had no gaskets. Respondent was transferring gasoline into motor vehicles prior to and after the failed static leak test. The failure to properly install, 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).

14. On July 28, 2009, Respondent attempted to conduct a retest at this GDF but no repairs had been made so the testing was not performed because it would not pass. Respondent was still transferring gasoline into motor vehicles as of this date. The failure to properly install, operate, and maintain the vapor control system and 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 August 17, 2009, Respondent conducted and passed a retest at this GDF.

15. 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. 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 systems at the Vermillion Valley and Middle Ridge Service Plazas, 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.

2. 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 at the Vermillion Valley and Middle Ridge Service Plazas 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.

3. Respondent shall pay the amount of fifteen thousand dollars (\$15,000) 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 twelve thousand dollars (\$12,000) 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

4. In lieu of paying the remaining three thousand dollars (\$3,000) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$3,000 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 \$3,000. 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.

5. 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

6. Should Respondent fail to fund the SEP within the required time frame set forth in Order 4, Respondent shall immediately pay to Ohio EPA \$3,000 of the civil penalty in accordance with the procedures in Order 3.

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.

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date

AGREED:

Lehigh Gas Corporation

Signature

Date

Printed or Typed Name

Title

GDF PENALTY WORK SHEET

Lehigh Gas Corporation
 Vermillion Valley and Middle Ridge Service Plazas
 (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		For the Middle Ridge Service Plaza, on 6/16/08 and 5/19/09, Respondent failed the 2008 and 2009 annual static leak and A/L ratio tests due to malfunctioning equipment. In addition, in 2009, Respondent failed a retest on 7/28/09 and did not complete full successful passing static leak and A/L ratio tests until 8/17/09. Respondent was operating the dispensers prior to and after each failed 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 Rule 3745-21-09(DDD)(1)(b) and (c). Per the GDF penalty policy, when a facility fails any test in two consecutive years or fails two consecutive tests the penalty is \$5,000.
2. Length of violation: i.	\$1,000		For the Vermillion Valley Service Plaza, Respondent failed the annual A/L ratio test on 5/20/09 and did not pass a retest until 7/29/09. Respondent operated the vapor control system while it was malfunctioning and failed 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, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and(c). Per GDF penalty policy, 30 days is given to fix

			the problems and retest. Any additional days beyond the initial 30 days are penalized \$25 per day. So 6/18/09 until 7/28/09 (40 days). 40 days x \$25 per day = \$1,000.
ii.	\$1,500		For the Middle Ridge Service Plaza, Respondent failed the annual static leak and A/L ratio tests on 5/19/09 and did not pass a retest until 8/17/09. Respondent operated the vapor control system while it was malfunctioning and failed 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, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and(c). Per GDF penalty policy, 30 days is given to fix the problems and retest. Any additional days beyond the initial 30 days are penalized \$25 per day. So 6/17/09 until 8/16/09 (60 days). 60 days x \$25 per day = \$1,500.
3. Size of violator:	\$7,500		Net worth (about \$27,000,000) is estimated at 20% of annual sales (annual sales are over \$136,000,000 from Reference USA database). Penalty associated with this amount would be \$35,000. 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 (\$7,500).
Preliminary Deterrence Amount:		\$15,000	
Initial Gravity Component:		\$15,000	
C. Adjustment Factors:			
1. Degree of willfulness or negligence: (total gravity component times any augmentation percentage)	\$0		Not applicable
2. Degree of cooperation: (total gravity component times any mitigation percentage)	\$0		Not applicable
3. History of noncompliance:	\$0		Not applicable

(total gravity component times any augmentation percentage)			
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:		\$15,000	
E. Administrative Component:		\$0	Not applicable
F. Initial Settlement Amount:		\$15,000	



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

OCT 19 2009

CERTIFIED MAIL

Mr. Syeda Nawazish
Uzair, Inc., d.b.a Lakeside Fuel
3389 North Ridge Road
Perry, Ohio 44081

Re: Proposed Director's Final Findings and Orders for Uzair, Inc., d.b.a Lakeside Fuel's Perry, Ohio Facility

Dear Mr. Nawazish:

My staff has informed me of the violations of Ohio Administrative Code Rule 3745-21-09(DDD) and ORC § 3704.05(G) associated with Uzair, Inc., d.b.a Lakeside Fuel's gasoline dispensing facility ("GDF") located at 3389 North Ridge Road, in Perry (Lake County), Ohio. I would like to express my concern regarding the violations of the Stage II vapor control system requirements at the above-mentioned GDF located in an area that is in nonattainment of the National Ambient Air Quality Standard for ozone. Compliance with Stage II vapor control system requirements is an important element in our State Implementation Plan and in avoiding continued nonattainment of the ambient air quality standard. In addition, it is my understanding that one violation has yet to be corrected.

In order to resolve this matter, I am proposing to issue the enclosed Findings and Orders prepared by my staff, which include a provision for civil penalties for the settlement of claims resulting from Uzair, Inc., d.b.a Lakeside Fuel's violations of the State's air pollution control laws. Also, enclosed is an administrative enforcement process guide to facilitate your review of the proposed Findings and Orders. 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 document summarize a proposed settlement, I consider them to be inadmissible for any purpose in any enforcement action the State may take if settlement cannot be reached.

Please note that the proposed Findings and Orders include a provision for 20 percent of the total civil penalty amount to go toward the funding of a supplemental environmentally beneficial project involving 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

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

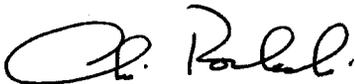
Mr. Syeda Nawazish
Uzair, Inc., d.b.a. Lakeside Fuel
Page 2 of 2

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 Donald L. Vanterpool of the Ohio EPA Legal Office, at (614) 644-3037. If he does not hear from Uzair, Inc., d.b.a Lakeside Fuel, 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 Uzair, Inc., d.b.a Lakeside Fuel 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
Donald L. Vanterpool, Legal Office
Tim Fischer, DAPC NEDO

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

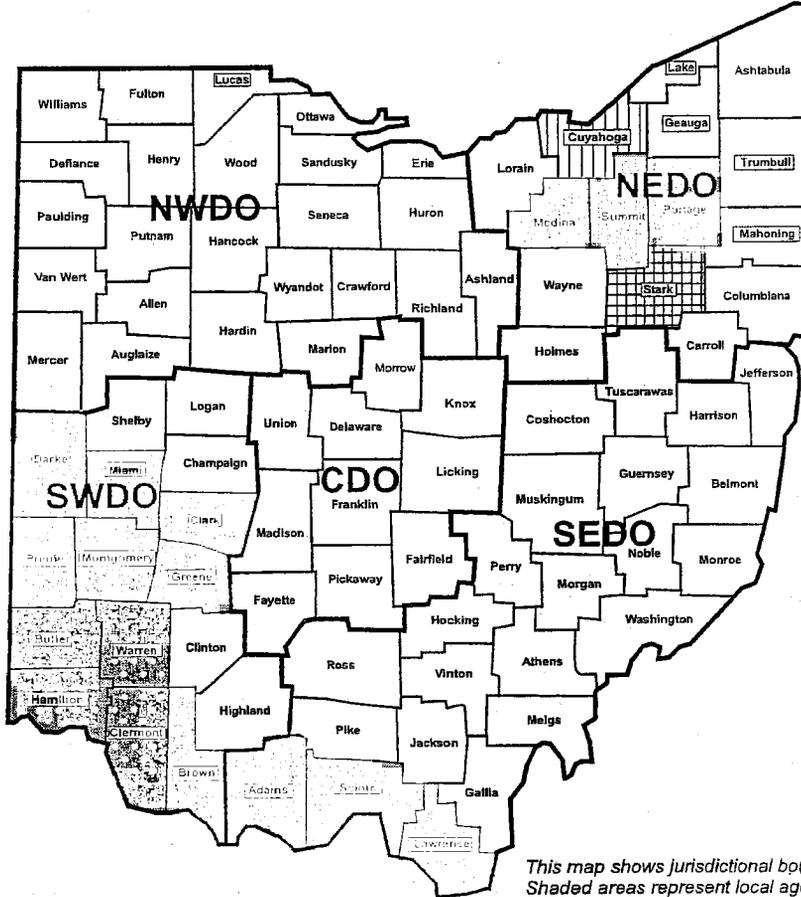
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about 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

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

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

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 emission control equipment 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 (NOx) 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 filtration efficiency of crankcase filters averages between 80% and 97%. 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.

Only control equipment found on USEPA's "Verified Technology List" may be purchased and installed (see (4) below for further details).

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

Only school buses that meet the following criteria will 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 driven not less than 5,000 miles per year.
- d. The school bus model year must be 1994 or newer.

4. Which types of control equipment would be acceptable for installation?

The USEPA publishes a "Verified Technology List." Only control equipment found 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. A copy of this list can be accessed at the following web site:

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

This table summarizes all the diesel retrofit technologies that the USEPA has approved for use in engine retrofit programs. The table shows the percent reduction (from verified or tested levels) that USEPA will recognize for emission reductions for each technology.

5. Is there a special type of fuel that must be used with the control equipment?

In some cases, 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.

Diesel oxidation catalysts and crankcase filtration systems do not require special fuel.

6. What costs are associated with the installation and operation of the emission controls?

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.

The estimated cost to retrofit each bus with a diesel oxidation catalyst ranges from \$600 to \$2,000. Installation takes approximately one to three hours to complete. Diesel oxidation catalysts do not require annual maintenance and will operate with regular diesel fuel.

7. 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 retrofit installations. 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 of \$5,000 or greater), 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 has established for the retrofitting of school buses.

8. How will the school systems receive the SEP monies for the diesel retrofit installations?

A school system that desires to participate in the retrofit program must apply to Ohio EPA to receive funding to purchase and install USEPA approved control equipment. Once or twice per year, the Ohio EPA will solicit applications from the eligible school systems. In the application, an eligible school system must describe the proposed project, providing details such as the number and ages of the buses to be retrofitted, the type of equipment that will be purchased and installed (must be on the USEPA-published list of "Verified Retrofit Technologies"), a schedule for installation of the equipment, and a detailed cost breakdown. Ohio EPA will evaluate each application and provide funding to applicant school systems that meet the criteria specified by Ohio EPA's regulations. Priority will be given to those applicants that are located in a nonattainment county for PM 2.5 and/or that include a commitment to implement an anti-idling program.

9. What oversight will be provided by the Ohio EPA to ensure that the diesel retrofit control equipment is 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 control equipment has been correctly installed, that the diesel particulate filters are being maintained properly, and that the monies are being spent appropriately.

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Uzair, Inc.,	:	<u>Director's Final Findings</u>
d.b.a. Lakeside Fuel	:	<u>and Orders</u>
3389 North Ridge Road	:	
Perry, Ohio 44081	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Uzair, Inc., d.b.a. Lakeside Fuel ("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") located at 3389 North Ridge Road, in Perry (Lake 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.

2. On June 19, 1995, a Permit to Operate ("PTO") was issued by Ohio EPA to the previous owner of this GDF, in accordance with the requirements of former OAC Rule 3745-35-02. The PTO required the previous owner to comply with the requirements for Stage II vapor control systems as specified in OAC Rule 3745-21-09(DDD). On or about January 1, 2005, the ownership of this GDF was transferred to Respondent. On April 4, 2007, Respondent submitted a written notification for a Permit-by-Rule ("PBR") for this GDF. A PBR was effective on April 26, 2007.

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 subject 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 subject 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. OAC Rule 3745-21-09(DDD)(3)(a)(vi) states, in part, that any owner or operator of a GDF subject to the requirements of paragraph (DDD)(1) shall maintain records demonstrating proof of attendance and completion of training required by Ohio EPA for the operator or local manager of the GDF.

8. On February 9, 2009, Respondent attempted to conduct the annual Stage II compliance tests at this GDF. However, the static leak and A/L ratio tests were not performed due to the poor condition of the equipment on several dispensers. Specifically, the nozzles on dispensers 2 and 4 were smashed, the hoses on dispensers 3 and 4 needed to be replaced and the dry break on dispenser 2 was leaking and needed to be replaced. Respondent was dispensing gasoline prior to and after the defects were identified. The failure to properly install, operate, and maintain the vapor

control system and 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 were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). In addition, Respondent failed to maintain records demonstrating proof of attendance and completion of the training required by Ohio EPA, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(3)(a)(vi).

9. On April 17, 2009, Respondent conducted a retest at this GDF. The A/L ratio test passed but the static leak test failed due to leaking ATG caps. Respondent was dispensing gasoline prior to and after the failed the static leak test. The failure to properly install, operate, and maintain the vapor control system and 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 were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c).

10. On June 3, 2009, Respondent attempted to conduct a static leak retest at this GDF. On this date, the ATG caps were still leaking and therefore the static leak test once again failed. Respondent was operating these dispensers prior to and after the failed static leak test. The failure to properly install, operate, and maintain the vapor control system and 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 were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On June 26, 2009, Respondent passed the static leak test.

11. By letter dated August 6, 2009, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 8, 9 and 10 of these Orders.

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 to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Within sixty (60) days from the effective date of these Orders, Respondent shall submit documentation, to Ohio EPA, demonstrating the operator or local manager of this GDF has completed the training required by OAC Rule 3745-21-09(DDD)(3)(a)(vi).

2. For the next two ozone seasons (i.e., 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 the period from 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 at least 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 thirteen thousand six hundred and seventy-five dollars (\$13,675) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) 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 ten thousand nine hundred and forty dollars (\$10,940) 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 two thousand seven hundred and thirty-five dollars (\$2,735) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$2,735 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 \$2,735. 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 \$2,735 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.

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date

AGREED:

Uzair, Inc., d.b.a. Lakeside Fuel

Signature

Date

Printed or Typed Name

Title

\$0GDF PENALTY WORK SHEET
 Uzair, Inc., d.b.a. Lakeside Fuel
 3389 North Ridge Road, Perry, 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 2/9/09, Respondent did not conduct and therefore failed the annual static leak and A/L ratio tests due to malfunctioning equipment. Specifically, nozzles on dispensers 2 and 4 were smashed, the hoses on dispensers 3 and 4 needed to be replaced, and the dry break on dispenser 2 was leaking and needed to be replaced. On 4/17/09, a retest was conducted and the A/L ratio test passed but the static leak test failed due to leaking ATG caps. On 6/3/09, the static leak retest once again failed. By 6/26/09, Respondent conducted the necessary repairs and the static leak test passed. Respondent was operating the dispensers prior to and after each failed 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 Rule 3745-21-09(DDD)(1)(b) and (c). Per the GDF penalty policy, when a facility fails two consecutive tests, the penalty is \$5,000.
2. Length of violation:	\$2,675		From 3/11/09 until 6/26/09, 107 days, Respondent operated the vapor control system while it was malfunctioning and failed 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, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and(c). Per GDF penalty policy, 30 days is given to fix the problems and retest. Any additional days beyond the initial 30 days are penalized \$25 per day. So 3/11/09 until 6/26/09 (107 days). 107 days x \$25 per day = \$2,675.
3. Record-keeping violations:	\$1,000		Respondent failed to maintain records demonstrating proof of attendance and completion of the training required by Ohio EPA, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(vi). To date, Respondent has failed to demonstrate compliance with this rule.
4. Size of violator:	\$5,000		Net worth (~\$140,000) is estimated at 20% of annual sales (annual sales are ~ \$700,000 from Reference USA database). Penalty associated with this amount is \$5,000.
Preliminary Deterrence Amount:		\$13,675	
Initial Gravity Component:		\$13,675	
C. Adjustment Factors:	\$0		Not applicable
1. Degree of willfulness or negligence: (total gravity component times any augmentation percentage)			
2. Degree of cooperation: (total gravity component times any mitigation percentage)	\$0		Not applicable
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:		\$13,675	
E. Administrative Component:		\$0	Not applicable
F. Initial Settlement Amount:		\$13,675	