AGENDA FOR THE JANUARY 14, 2010 EC MEETING

CASES TO BE CLOSED:

Sugar Creek Packing Co. (Washington Court House)	#2698	112r	Final F&Os	Sherri/Don
Sugar Creek Packing Co. (Dayton)	#2719	112r	Final F&Os	Sherri/Don
New Day Farms, LLC **(VC)**/ Henning Construction Company Reichert Excavating Incorporated	#2750 #2784	CDO	Final F&Os	John/Steve
Precision Environmental Company	#2760	Akron	DWL	Tom/Steve
ConSun Food Industries, Inc. (Convenient Food Mart GDFs #736 and #746)	#2813	NEDO	Final F&Os	Tom/Don
Brent Saionz, d.b.a. Simon Excavating	#2870	NWDO	Unil. F&Os	Tom/Marc
Ron Smith	#2874	NWDO	Unil. F&Os	Tom/Steve

PENDING CASES:

NewKor, Inc.	#2811	Cleveland	Prop. F&Os	John/Steve
Pexco Packaging Corporation	#2878	Toledo	DWL	John/Don

OTHER BUSINESS:

(1) Distribute updated schedule of progress for resolving all "old" cases for 2008.

(2) Distribute updated schedule of progress on resolving all "old" cases for 2009.

(3) Distribute updated schedule of progress on resolving all "old" cases for 2010.

(4) **Bryan is scheduled to provide food for today's meeting at 3:00 p.m. in DAPC Rm C.**

(5) The next meeting is scheduled for Thursday, January 28, 2010 at 3:00 p.m. in DAPC Rm C. Marc is scheduled for food. (Future food schedule: Tom for February 11; Steve for February 25.)

ENFORCEMENT COMMITTEE MEETING MINUTES

(January 14, 2010)

		Dates:	
Case Number:	2698	**EAR**:	01/30/08
Entity:	Sugar Creek Packing Co. (Washington Courthouse)	**DWL**:	N/A
Field Office:	112r	**F&Os**:	01/14/10
Contact:	Sherri Swihart	**Referral**:	N/A
Attorney:	Donald L. Vanterpool	**Dismissal**:	N/A

Background: Sugar Creek Packing Co. ("Sugar Creek") is a bacon producing facility located 2101 ½ Kenskill Avenue in Washington Courthouse. Anhydrous ammonia is used as a refrigerant in its process. Sugar Creek failed to submit a Risk Management Plan ("RMP") in June 1999. The date the RMP was received by USEPA is September 11, 2007. Ohio EPA DAPC inspected the facility on January 3, 2008, and discovered minor deficiencies. The company claimed that it prepared a RMP in 2004, but it was not submitted to Ohio EPA. The minor deficiencies were not included in the penalty calculation due to the fact that initial audits were compliance assistance. Unless a company does not submit the supporting documentation for deficiencies in a timely manner, Ohio EPA will assist them with RMP compliance. This enforcement action is based solely on the late submission of the RMP, which is in violation of OAC Rule 3745-104-38(B) and ORC § 3753.06.

On April 7, 2008, proposed Director's Final Findings and Orders ("F&Os") were sent to Sugar Creek to attempt an administrative settlement of the violations at the Washington Courthouse facility. The F&Os propose to require Sugar Creek to (1) pay a civil penalty of $49,280 within 14 days of the effective date of the F&Os, with $9,856 of that amount to be directed to the Clean Diesel School Bus Program Fund, and (2) implement the compliant RMP program thereafter.

Ohio EPA DAPC met with facility representatives on December 14, 2009, and a settlement was reached.

Action: On January 14, 2010, final F&Os were issued to Sugar Creek for its Washington Courthouse facility. The F&Os require Sugar Creek to implement the compliant RMP program and pay a civil penalty of $5,312 as outlined in the following:

(1) Within 14 days after the effective date of the F&Os, pay Ohio EPA the amount of $4,250 of the total penalty, which is to be deposited into the RMP fund established pursuant to ORC § 3753.05; and

(2) Within 30 days after the effective date of the F&Os, pay Ohio EPA's Clean Diesel School Bus Program Fund the amount of $1,062 of the total penalty, as a SEP.

Case Closed

		Dates:	
Case Number:	2719	**EAR**:	04/24/08
Entity:	Sugar Creek Packing Co. (Dayton)	**DWL**:	N/A
Field Office:	112r	**F&Os**:	01/14/10
Contact:	Sherri Swihart	**Referral**:	N/A
Attorney:	Donald L. Vanterpool	**Dismissal**:	N/A

Background: Sugar Creek Packing Co. ("Sugar Creek") is a bacon producing facility located on 1241 North Gettysburg Avenue in Dayton. Anhydrous ammonia is used as a refrigerant in its process. Sugar Creek failed to submit a Risk Management Plan ("RMP") when the anhydrous ammonia in the process exceeded the 10,000 pound threshold in 2002, due to the addition of a second refrigeration process. The specific date for startup of the process was unavailable from Sugar Creek representatives. The date the RMP was received by USEPA is August 31, 2007. Ohio EPA DAPC inspected the facility on March 26, 2008, and no deficiencies were discovered. This enforcement action is based solely on the late submission of the RMP, which is in violation of OAC Rule 3745-104-38(B) and ORC § 3753.06.

On July 28, 2008, proposed Director's Final Findings and Orders ("F&Os") were sent to Sugar Creek to attempt an administrative settlement of the violations at the Dayton facility. The F&Os proposed to require Sugar Creek to (1) pay a civil penalty of $41,760 within 14 days of the effective date of the F&Os, with $8,352 of that amount to be directed to the Clean Diesel School Bus Program Fund, and (2) implement the compliant RMP program thereafter.

Ohio EPA DAPC met with facility representatives on December 14, 2009, and a settlement was reached, including the performance of a SEP.

Action: On January 14, 2010, final F&Os were issued to Sugar Creek for its Dayton facility. The F&Os require Sugar Creek to implement the compliant RMP program and pay a civil penalty of $10,880 as outlined in the following:

(1) Within 14 days after the effective date of the F&Os, pay Ohio EPA the amount of $4,656 of the total penalty, which is to be deposited into the RMP fund established pursuant to ORC § 3753.05;

(2) Within 30 days after the effective date of the F&Os, pay Ohio EPA's Clean Diesel School Bus Program Fund the amount of $2,176 of the total penalty, as a SEP; and

(3) Within six months after the effective date of the F&Os and in lieu of paying the remaining $4,048 of the total penalty, spend at least $4,048 on a SEP consisting of the installation of a wet rotoclone for emissions unit P003 (impingement oven) at Sugar Creek's Washington Courthouse facility to control particulate emissions from the unit thereafter. By August 1, 2010, Sugar Creek is to submit documentation of the expenditure of at least $4,048 to Ohio EPA.

Case Closed

		Dates:	
Case Number:	2750 and 2784	**EAR**:	12/04/08
Entity:	New Day Farms, LLC (2750) Reichart Excavating, Inc. (2784) Henning Construction Co. (2750)	**VC:**	08/21/08
Field Office:	CDO	**F&Os**:	01/12/10
Contact:	Eric Yates / John Paulian	**Referral**:	N/A
Attorney:	Stephen Feldmann	**Dismissal**:	N/A

Background: On March 20, 2009, proposed Director's Final Findings and Orders ("F&Os") were issued to New Day Farms, LLC, Henning Construction Co., and Reichart Excavating, Inc. The F&Os assessed a civil penalty of $92,000, of which 20% was to be directed to fund Ohio EPA's Clean Diesel School Bus Program.

Henning Construction Co. was hired by New Day Farms, LLC to be the general contractor for a demolition project involving several large poultry barns at New Day

Farms, LLC located at 27322 State Route 739 in Raymond, Ohio. Reichart Excavating, Inc. was hired by Henning Construction Co. to be the demolition contractor for the job. On June 12, 2008, Ohio EPA Central District Office ("CDO") received an anonymous complaint that demolition of the poultry barns was occurring at New Day Farms, LLC. The complainant was concerned that the poultry barns contained asbestos.

On June 12, 2008, CDO visited New Day Farms, LLC and inspected the demolition project. When CDO arrived on site, two barns had already been demolished and removed from the site. Two additional barns were in the process of being demolished. Samples collected from a hard transite material present in each of the barns indicated the presence of asbestos above the regulated level.

During the June 12, 2008 inspection, CDO discovered multiple violations of OAC Chapter 3745-20. Specifically, the actions at the demolition sites violated:

- OAC Rule 3745-20-02(A) by failing to conduct a thorough inspection for asbestos prior to beginning the demolition.

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

- OAC Rule 3745-20-04(A)(1) by failing to remove all regulated asbestos-containing material ("RACM") prior to conducting demolition activities.

- OAC Rule 3745-20-04(B)(1) by not having an authorized person trained in the provisions of OAC Chapter 3745-20 on site during demolition.

- OAC Rule 3745-20-05(B)(1) by failing to control visible emissions during the demolition.

- OAC Rule 3745-20-04(A)(6)(a) by failing to adequately wet RACM after stripping or removal and prior to collection for disposal.

- OAC Rule 3745-20-04(C) by failing to ensure that all RACM, which has been damaged or made friable by demolition, is repaired, encapsulated, or removed in accordance with OAC Rule 3745-20-05.

- ORC § 3704.05(G) by not complying with the above regulations adopted by the Director pursuant to ORC Chapter 3704.

After CDO visited the facility, the demolition project was halted and Central Insulation Services was hired to complete the asbestos abatement. The final asbestos abatement was completed on August 15, 2008.

After settlement negotiations, a final civil penalty of $50,000 was agreed to by all parties.

Action: On January 12, 2010, final F&Os were issued to New Day Farms, LLC, Henning Construction Co., and Reichart Excavating, Inc. The F&Os require the parties to pay a civil penalty of $50,000, of which 20% will be directed to fund Ohio EPA's Clean Diesel School Bus Program.

Case Closed

		Dates:	
Case Number:	2760	**EAR**:	10/22/08
Entity:	Precision Environmental Company	**DWL**:	01/12/10
Field Office:	Akron	**F&Os**:	12/18/08 (prop.)
Contact:	Patty Porter / Tom Kalman	**Referral**:	N/A
Attorney:	Stephen Feldmann	**Dismissal**:	N/A

Background: On December 18, 2008, proposed Director's Final Findings and Orders ("F&Os") were sent to Precision Environmental Company ("Precision"), an asbestos abatement contractor of 5500 Old Brecksville Road, Independence, Ohio. The purpose of the F&Os was to attempt an administrative settlement of the notification violation of the asbestos emission control standards of OAC Chapter 3745-20 that occurred for a demolition project involving four residential structures previously located at 363 Powers Street, 503 Exchange Street, 364/366 Moon Drive, and 505 Nash Street in Akron, Ohio. The F&Os proposed to require the company to pay a civil penalty of $24,000 within 14 days after the effective date of the F&Os, of which $4,800 was to be directed to the Ohio EPA Clean Diesel School Bus Program Fund as a SEP. The penalty for the notification violation was increased due to this being a second offense within the last five years. However, a mitigation for cooperation of 20 percent was provided.

Precision was hired by the University of Akron to remove regulated asbestos-containing material from these four residential structures prior to their demolition. These structures, along with five other residential structures, were to be demolished by

Precision as part of a larger project involving the demolition of a number of residential structures. The combination of the amounts of regulated asbestos-containing material from all of the structures involved in the overall project and in Precision's portion of the project exceeded the work practice threshold in OAC Rule 3745-20-02(B)(1) and, therefore, the asbestos removal and demolition of the four structures, as well as the other five residential structures, were subject to the notification and work practice requirements of OAC Chapter 3745-20.

Through telephone conversations with the University of Akron and Precision, the Akron Regional Air Quality Management District ("ARAQMD") discovered that Precision had removed regulated asbestos-containing material from the four structures prior to submitting the required notification pursuant to OAC Rule 3745-20-03(A). (The required notifications were submitted for the other five structures.) On June 24, 2008, Precision submitted a late notification to ARAQMD, which confirmed that regulated asbestos-containing material had been removed in April 2008. In accordance with USEPA policy, a late notification is tantamount to no notice if it is received after the asbestos removal is completed. Therefore, Precision violated OAC Rule 3745-20-03(A) and ORC § 3704.05(G) by failing to submit a timely notification. This violation was cited in the proposed F&Os.

On August 6, 2008, ARAQMD sent notice of violation ("NOV") letters to Precision and the University of Akron for the failure to timely submit a notification. On August 11, 2008, the University of Akron replied to the NOV letter, saying that Precision had full responsibility for submitting the notification. The response also stated that EA Group had been hired to oversee the project, that all applicable work practice requirements of OAC Chapter 3745-20 had been followed, and that no substantive violations had occurred. Similarly, Precision replied to the NOV letter on August 12, 2008, stating that the regulated asbestos-containing material was properly removed and the failure to timely submit the notice was due to its misunderstanding of the notification requirements. Precision also stated that it had submitted timely individual notices for five of the nine project structures it was involved in. The company claimed it had received inconsistent guidance from Ohio EPA field offices regarding how to submit notifications for multiple structure abatement projects. In one project, a field office informed Precision to submit an individual notification for each residential structure containing more than one of the threshold levels of regulated asbestos-containing material.

Precision's failure to timely submit the notification did not provide ARAQMD the opportunity to confirm that the asbestos was properly removed from the four structures that contained regulated asbestos-containing material less than the threshold levels.

However, ARAQMD and DAPC have concluded that the University of Akron's statement and the involvement of EA Group provided reliable confirmation that Precision probably performed the asbestos removal in compliance with the work practice requirements. Nevertheless, the DAPC decided to pursue this notification violation because the failure to notify hindered ARAQMD's ability to inspect the removal and because Precision is an asbestos abatement contractor and should have known about the requirements.

After Precision received the proposed F&Os of December 18, 2008, a meeting was held on February 12, 2009 among Ohio EPA, ARAQMD and Precision. During the meeting, Precision refused to pursue settlement with F&Os with a civil penalty even after Ohio EPA offered to reduce the penalty to $4,000 by considering the violation as a failure to submit complete notifications for the notifications submitted for the five residential structures that each contained above threshold levels of regulated asbestos-containing material. Precision's attorney and Ohio EPA then exchanged a number of e-mails relating to Precision's allegation that inconsistent guidance was being given out by Ohio EPA field offices. Precision was informed that the proper approach, which Precision had followed in several other previous multiple structure projects, was to have someone file information with Ohio EPA on the scope of a large project and then individual contractors could submit a notification on their portion of work and reference that large project.

After an impasse was reached, the Director's Office decided that the pursuit of F&Os with civil penalty should be dropped. Since Precision was agreeable to a Director's warning letter, it was recommended to the Director that such a letter be sent to Precision.

Action: On January 12, 2010, a Director's warning letter was sent to Precision in resolution of this case. The warning letter indicates the Agency normally pursues such notification violations with civil penalties. However, the letter further states that, based on information provided by the University of Akron and the EA Group, Ohio EPA is confident that the regulated asbestos-containing material was properly removed from these structures. The letter concludes that the Ohio EPA is not going to pursue administrative orders and assess civil penalties for this violation; therefore, Ohio EPA is withdrawing the proposed F&Os of December 18, 2009, and is requesting Precision to submit to Ohio EPA, within 14 days after the receipt of the letter, a written commitment to comply with all applicable demolition and renovation rules in the future.

Case Closed

		Dates:	
Case Number:	2813	**EAR**:	03/27/09
Entity:	ConSun Food Industries, Inc. (Convenient Food Mart #736 and #746)	**DWL**:	N/A
Field Office:	NEDO	**F&Os**:	01/14/10
Contact:	Jim Kavalec / Tom Kalman	**Referral**:	N/A
Attorney:	Donald L. Vanterpool	**Dismissal**:	N/A

Background: On July 9, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to ConSun Food Industries, Inc. ("ConSun"), of 123 North Gateway Boulevard in Elyria, Ohio, to attempt an administrative settlement of the violations of air pollution control rules and law associated with ConSun's gasoline dispensing facility ("GDF") located at 5375 West Erie Street in Lorain (Convenient Food Mart #746). The F&Os would require ConSun to:

(1) within 30 days after the effective date of the F&Os, submit a Permit-by-Rule notification pursuant to OAC Rule 3745-31-03(A)(4)(a);

(2) within 120 days after the effective date of the F&Os, install a Stage II vapor control system for the GDF, and thereafter operate and maintain such system in compliance with OAC Rule 3745-21-09(DDD);

(3) within 14 days of the completion of installation of a Stage II vapor control system, certify in writing to Ohio EPA that the system was installed in accordance with OAC Rule 3745-21-09(DDD) and the CARB standard associated with the Stage II vapor control system;

(4) within 30 days after the effective date of these Orders, make all necessary repairs to the Stage I vapor balance system, and thereafter operate and maintain such system in compliance with OAC Rule 3745-21-09(R):

(5) within 14 days of the completion of the repairs to the Stage I vapor balance system, certify in writing to Ohio EPA that the system was repaired in accordance with manufacturer's specifications; and

(6) within 30 days after the effective date of the F&Os, pay a civil penalty of $40,000 to Ohio EPA, of which $8,000 is to be directed to the Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

With respect to GDF #746, the proposed F&Os addressed ConSun's failure to install, operate and maintain a Stage II vapor control system at the GDF while continuing to dispense gasoline from at least May 2005 to the present, in violation of OAC Rule 3745-21-09(DDD)(1) and ORC § 3704.05(G). ConSun did have an independent small business marketer classification in a 1997 permit to operate and was exempt from Stage II control requirements; however that status was revoked in August of 2007. ConSun committed to installing Stage II controls by November 2007, but never did so. Also, the proposed F&Os addressed the violation of OAC Rule 3745-21-09(R)(2) and ORC § 3704.05(G) from July 30, 2008 to the present, due to ConSun's failure to keep the Stage I vapor control system in good working order and free from leaks.

(See the EC Meeting Minutes of July 16, 2009 for additional background information.)

On July 15, 2009, Northeast District Office of Ohio EPA indicated to Central Office that the violations at ConSun's GDF at 8703 West Ridge Road, Elyria, Ohio (Convenient Food Mart #736) needed to be added to the current case with ConSun. Therefore, on August 4, 2009, revised proposed F&Os were sent to ConSun that also addressed the violations at GDF #736. Those violations involved the failure to successfully pass the annual Stage II vapor control system tests since the test in April 2006. ConSun failed the A/L ratio test for dispensers #1, 2, 3 and 4 on April 26, 2006; failed the static leak and A/L ratio test for dispenser #4 on April 2, 2007; failed the A/L ratio test for dispenser #4 on March 31, 2008; and failed the A/L ratio test for dispensers #1, 3 and 4 on March 31, 2009. ConSun continued to operate the dispensers despite these test failures, which were each corrected within a couple of months, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G).

The August 4, 2009, revised proposed F&Os contained two additional orders when compared to the July 9, 2009 proposed F&Os. For GDF #736 and for the next two ozone seasons, the F&Os proposed to require ConSun to conduct weekly inspections of the Stage II vapor control system during the period from March 15, 2010 to October 31, 2010 and from March 15, 2011 to October 31, 2011, and perform and pass static leak and A/L ratio tests during March and August of 2010 and 2011. Also, the civil penalty was increased to $46,700, of which $9,340 was to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

In a letter dated August 31, 2009, ConSun certified that it had made all of the necessary repairs to the Stage I vapor control system for GDF #746. Also, ConSun ceased dispensing gasoline at GDF #746 as of August 13, 2009 due to the cost of installing a Stage II vapor control system.

After receipt of the proposed F&Os of August 4, 2009, ConSun attempted to argue that GDF #746 was an independent small business marketer ("ISBM") and had gasoline sales of less than 50,000 gallons per month, i.e., that it continued to be exempt from the Stage II vapor control system requirements. ConSun submitted documentation to support its argument that the GDF obtained more than 50 percent of its income from gasoline sales. However, it erroneously assumed that "income" meant profit. Ohio EPA sent ConSun information to support its position that income meant sales. Since at least 2005, ConSun has had a monthly throughput greater than 10,000 gallons per month but never exceeded 50,000 gallons per month. Based upon the information submitted by ConSun, its annual sales of gasoline were less than 50% of the total store sales; therefore, ConSun does not meet the definition of an ISBM and needed to install a Stage II vapor control system since at least 2005. ConSun eventually dropped this argument.

On December 21, 2009, a meeting was held with ConSun, during which a settlement was reached with the proposed F&Os. The penalty was significantly reduced since Ohio EPA did not know that GDF #746 had ceased dispensing gasoline in August 2009 and that repairs of the Stage I system at GDF #746 were done within 2 weeks.

Action: On January 14, 2010, final F&Os were issued to ConSun in resolution of the violations that occurred at GDFs #736 and #746. The F&Os require ConSun to do the following:

(1) Prior to any resumption of gasoline dispensing at GDF #746, submit a permit-by-rule notification to Ohio EPA, in accordance with OAC Rule 3745-31-03(A)(4)(a);

(2) Prior to any resumption of gasoline dispensing at GDF #746, install a Stage II vapor control system at the GDF, in accordance with OAC Rule 3745-21-09(DDD) and the CARB standards associated with the selected Stage II vapor control system being installed, and operate and maintain such system in compliance with those requirements;

(3) Within 14 days of completing installation of the Stage II vapor control system at GDF #746, submit a written certification indicating that the system was installed in accordance with the requirements mentioned in item (2) above;

(4) For the next two ozone seasons (i.e., April 1 to October 31, 2010 and April 1 to October 31, 2011) and starting by at least March 15, 2010 and March 15, 2011 and continuing until October 31, 2010 and October 31, 2011, respectively, conduct weekly inspections of the Stage II vapor control system at GDF #736,

checking for leaks, malfunctions or damage to the system, keep records of the inspections and any repairs made, and submit copies of the records of the weekly inspections by August 14 of each year for the period from March 15 through July 31 of each year and by November 14 of each year for the period from August 1 through October 31 of each year;

(5) For the next two ozone seasons (i.e., April 1 to October 31, 2010 and April 1 to October 31, 2011), perform and successfully pass the static leak and A/L ratio tests at GDF #736, during March and August of each ozone season, notify Ohio EPA of each such test by at least 14 days prior to any test, and submit the results of each test within 14 days after completion of the tests; and

(6) Pay a civil penalty of $17,250 in accordance with the following payment plan:

- within 30 days after the effective date of the F&Os, pay $1,600 to Ohio EPA,
- within 30 days after the effective date of the F&Os, pay $3,450 to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP,
- within 120 days after the effective date of the F&Os, pay $4,000,
- within 210 days after the effective date of the F&Os, pay $4,000, and
- within 300 days after the effective date of the F&Os, pay $4,200.

Case Closed

		Dates:	
Case Number:	2870	**EAR**:	10/15/09
Entity:	Brent Saionz, d.b.a. Simon Excavating	**DWL**:	N/A
Field Office:	NWDO	**F&Os**:	01/13/10 (unil.)
Contact:	Tan Tran / Tom Kalman	**Referral**:	N/A
Attorney:	Marcus Glasgow	**Dismissal**:	N/A

Background: Brent Saionz, d.b.a. Simon Excavating, has a business address of 670 West County Road 73, Fremont, Ohio. He was hired by Redline Racing, LLC to perform a land-clearing project at its commercial property located at 708 Bartson Road, Ballville Township, Sandusky County, Ohio ("the property"). This commercial property

is located in a "restricted area" pursuant to the open burning standards in OAC Chapter 3745-19.

On August 6, 2009, Northwest District Office of Ohio EPA ("NWDO") conducted an investigation at the property in response to a complaint that it received on August 4, 2009. Upon entering the property in the dirt track area, the NWDO inspector observed open burning of commercial waste material. A 20 foot x 20 foot pile of ash, stumps, brush, and tire belts was observed smoldering. Since prohibited open burning was being conducted in a restricted area, Mr. Saionz and the property owner violated OAC Rule 3745-19-03(A) and ORC § 3704.05(G).

On September 9, 2009, the NWDO inspector returned to the property to conduct an investigation of open burning at another area of the property known as the motorcross track. At this area, the NWDO inspector observed four sites containing the recent remnants of open burning of commercial waste. Since open burning of commercial waste was conducted in a restricted area, Mr. Saionz and the property owner violated OAC Rule 3745-19-03(A) and ORC § 3704.05(G).

On September 16, 2009, NWDO sent a Notice of Violation ("NOV") letter to Mr. Saionz for the violations that were observed on August 6 and September 9, 2009. The NOV letter requested that he cease all such open burning.

On October 15, 2009, NWDO submitted an Enforcement Action Request to Central Office for the violations and requested that unilateral Director's Final Findings and Orders ("F&Os") with a civil penalty, as provided by OAC Rule 3745-19-06, be issued.

Action: On January 13, 2010, unilateral F&Os were issued to Mr. Saionz to address the violations of OAC Rule 3745-19-03(A) and ORC § 3704.05(G). The F&Os require Mr. Saionz to cease all open burning in violation of OAC Chapter 3745-19 upon the effective date of the F&Os and maintain compliance thereafter. Also, the F&Os require Mr. Saionz to pay Ohio EPA a civil penalty of $2,000 within 14 days after the effective date of the F&Os. The civil penalty was determined using the provisions of OAC Rule 3745-19-06, i.e., a penalty factor of $1,000 per day per violation and two days of open burning on commercial property.

It was decided to not pursue penalties against the property owner because it was not known if that company actually authorized the open burning by Mr. Saionz.

Case Closed

		Dates:	
Case Number:	2874	**EAR**:	11/09/09
Entity:	Ron Smith	**DWL**:	N/A
Field Office:	NWDO	**F&Os**:	01/12/10 (unil.)
Contact:	Felix Udeani / Tom Kalman	**Referral**:	N/A
Attorney:	Stephen Feldmann	**Dismissal**:	N/A

Background: Ron Smith owns the residential property located at 16899 Kellogg Road in Washington Township of Wood County, Ohio. This property is located in an "unrestricted area" as provided in OAC Chapter 3745-19 concerning the open burning standards.

On October 22, 2009, Mr. Smith conducted open burning on his property of a pile of trash (15 feet x 25 feet x 7 feet in size), consisting of multiple mattresses, a bathroom sink, two rolls of fiber glass insulation, metal fencing, brush, wood, several metal bars with 1/2-inch thick rubberized coating on them and 11 tires, in violation of OAC Rule 3745-19-04(A) and ORC § 3704.05(G).

On October 29, 2009, Ohio EPA issued a notice of violation letter to Mr. Smith for the above-mentioned open burning violation.

On November 9, 2009, the Northwest District Office of Ohio EPA submitted an Enforcement Action Request to Central Office for the violation and requested that unilateral Director's Final Findings and Orders ("F&Os") with a civil penalty, as provided by OAC Rule 3745-19-06, be issued.

Action: On January 12, 2010, unilateral Director's Final Findings and Orders ("F&Os") were issued to Mr. Smith to address the violation of OAC Rule 3745-19-04(A). The F&Os require Mr. Smith to immediately cease all open burning in violation of OAC Rule 3745-19-04(A) and pay Ohio EPA a civil penalty of $250 within 30 days after the effective date of the F&Os. The penalty was based on the provisions of OAC Rule 3745-19-06, i.e., a penalty factor of $250 per day per violation and one day of violation on residential property. This single incident of open burning in violation of OAC Rule 3745-19-04(A) is being pursued because of the size and contents of the fire.

Case Closed

		Dates:	
Case Number:	2811	**EAR**:	03/30/09
Entity:	NewKor, Inc.	**DWL**:	N/A
Field Office:	CDAQ	**F&Os**:	01/12/10 (prop.)
Contact:	Eric Yates / John Paulian	**Referral**:	N/A
Attorney:	Stephen Feldmann	**Dismissal**:	N/A

Background: NewKor, Inc. ("NewKor") owns and operates a manufacturing facility ("facility") located at 10410 Berea Road in Cleveland. At the facility, NewKor operates numerous pieces of equipment for the production of paper roller tubes used in military launching tubes, paint roller tubes, tape cores, and paper mailing machines. Among the equipment are various emissions units that emit methanol, phenol, and formaldehyde, which are "hazardous air pollutants."

The primary emissions units at the facility consist of two dip tanks and two drying ovens. Permits to operate were issued for the dip tanks and drying ovens in 1986 and 1989, respectively. Those permits expired in 1989 and 1992. To date, the facility is operating under those expired permits. The current President of the facility, Gordon Barr, began operation of the facility in 1999 and has never submitted renewal applications.

Over the years CDAQ has received numerous odor complaints against NewKor. Those complaints became more frequent beginning in 2007 when new residential development began in the vicinity of NewKor. Although the odor complaints have come largely from two people, DAPC believes the odors generated by NewKor are creating a public nuisance, in violation of OAC Rule 3745-15-07 and ORC § 3704.05(G).

As a result of investigating the odor complaints, CDAQ discovered that NewKor was operating under expired permits and also that NewKor's emissions of VOCs are higher than previously thought. It has since been determined that the facility is a "major source" of VOCs and hazardous air pollutants, on both an actual and potential basis, as defined in OAC Rule 3745-77-01(W). Based on records reviewed by CDAQ, the facility has been a major source of VOCs and hazardous air pollutants prior to and at all times since Mr. Barr took ownership of the facility in 1999. As a major source, NewKor failed to submit a timely Title V permit application and pay the associated Title V fees, in violation of OAC Rules 3745-77-02, 3745-77-04 and 3745-78-02, and ORC § 3704.05(G) and (J)(2).

Upon being notified of the above violations by CDAQ in 2008, Mr. Barr began working with OCAPP to develop a permitting strategy. Mr. Barr and OCAPP were unable to develop a permitting strategy that would allow NewKor to avoid obtaining a Title V

permit. NewKor has also unsuccessfully attempted to adjust the solvent content in its coating mixture to lower emission levels to below the Title V permitting threshold.

While reviewing applicable rule requirements for NewKor, it was determined that OAC Rule 3745-21-11, which was rescinded in April 2009, would have applied to NewKor at the time that Mr. Barr took ownership of the facility. OAC Rule 3745-21-11 required any facility that has the potential to emit one hundred tons or more of VOCs to complete an engineering study to determine the technical and economic feasibility of reducing the VOC emissions from the sources at the facility. We have determined that NewKor had and continues to have a potential to emit greater than one hundred tons of VOCs per year and did not complete the engineering study required by OAC Rule 3745-21-11, in violation of that rule and ORC § 3704.05(G). (Because this facility is a major source of VOC emissions and has been located in an ozone nonattainment area, RACT requirements should have been established for this facility, in OAC Chapter 3745-21, over 10 years ago. That didn't happen because CDAQ, until recently, was not aware that this major source existed.)

In the Orders DAPC is seeking to have NewKor perform a study similar to what was previously required and institute reasonably available control technology ("RACT") control measures. This is because DAPC believes such a study and controls are needed to reduce the odor nuisance.

Action: On January 12, 2010, proposed Director's Final Findings and Orders ("F&Os") were issued to NewKor. The F&Os propose to require NewKor to:

1. Pay a civil penalty of $155,000, of which 20% would go to the Clean Diesel School Bus Program Fund as a SEP.

2. Submit a Title V permit application within 90 days of the effective date of the F&Os.

3. Submit Title V permit fee emission reports within 120 days of the effective date of the F&Os for calendar years 1999 through 2008.

4. Within 150 days of the effective date of the F&Os, complete and submit an engineering study to DAPC to determine whether it is cost effective to control VOC emissions responsible for odor complaints. The engineering study will follow the same basic outline as the RACT requirements in OAC Rule 3745-21-11. Since OAC Rule 3745-21-11 was rescinded in April 2009, DAPC's ability to require NewKor to complete the RACT study is

legally questionable even though case law would indicate that pursuit of criminal penalties would be allowed. DAPC does not have the authority to require NewKor to complete the RACT study. DAPC's hope is that it will be able to persuade NewKor to complete the engineering study in exchange for some mitigation of the penalty. If NewKor does not complete the engineering study, DAPC would have to complete the study and then go through the rulemaking process in order to establish applicable emissions limits for NewKor.

Case Continued

		Dates:	
Case Number:	2878	**EAR**:	12/01/09
Entity:	Pexco Packaging Corp.	**DWL**:	01/12/10
Field Office:	TDOES	**F&Os**:	N/A
Contact:	Eric Yates / John Paulian	**Referral**:	N/A
Attorney:	Donald L. Vanterpool	**Dismissal**:	N/A

Background: Pexco Packaging Corp. ("Pexco") operates a manufacturing facility located at 795 Berdan Avenue in Toledo (OEPA facility ID # 0448011635). At the facility, Pexco manufactures plastic bags and other plastic products used in the grocery and retail markets.

On January 13, 2009, PTIO 01-04056 was issued for emissions units K001, K002 and K003 (flexographic printing presses). The PTIO was a renewal permit that replaced the original PTI issued in 1993. The new PTIO increased the record-keeping requirements required of the facility. Additionally, the new PTIO required the facility to conduct compliance testing of emissions units K001, K002 and K003 within 90 days of the permit being issued (i.e. by April 13, 2009).

To date, Pexco has failed to maintain the new records required by the PTIO and has failed to conduct compliance testing as required by the PTIO.

The City of Toledo Division of Environmental Services ("TDOES") informed Pexco of these violations of the PTIO in NOV letters dated April 28, July 20, and November 2, 2009. Pexco has stated that conducting compliance testing would create a financial

burden on the company. Pexco has committed to submit the records required by the permit but, to date, the records have not been submitted.

TDOES referred the case to Central Office hoping that a warning letter would provide the company with the motivation to submit the required records and also conduct the compliance testing required by the PTIO.

If Pexco fails to respond to a Director's warning letter, then DAPC's recommendation would be to pursue escalated enforcement through Findings and Orders with civil penalties.

Action: On January 12, 2010, a Director's warning letter was sent to Pexco to encourage it to follow the terms and conditions of its PTIO.

Case Continued

ACTIONS & MINUTES APPROVED BY: Bob Hodanbosi

Bob Hodanbosi, Chief, DAPC

NEXT MEETING:
January 28, 2010
3:00 p.m.
DAPC Room C

PENDING AIR ENFORCEMENT COMMITTEE CASES

Total Unresolved Cases (82)

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
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
2685	Quickrete - Cleveland Plant	Akron	DV/UD	10/17/07	12/14/07
2701 (VC)	City of Dayton, Advanced Wastewater Treatment Facility	RAPCA	BZ/JK	02/19/08	02/19/08
2722	Tuscarwas County YMCA, M-Cor Inc., Raeder Construction, et al.	SEDO	BZ/UD	12/20/07	05/05/08
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
2745	OmniSource Corporation	NWDO	MG/MM	12/14/05	08/11/08
2752	Allied Corporation (Plant #75)	Akron	MG/JP	01/29/05	09/02/08
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
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
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
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
2810	Ellwood Engineered Castings Co. **(HPV)**	NEDO	DV/TT	02/25/09	03/13/09

Updated: 01/14/10

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
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
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
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
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
2839	Liberty Gas USA, LLC (Middle Avenue GDF in Elyria and Clark Oil 1163 in Lorain)	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
2844	Iten Industries, Inc. (Plant 1) **(HPV)**	NEDO	SF/MM	04/18/08	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

Updated: 01/14/10

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
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 (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 Car Care, Incorporated, 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	04/02/09	09/02/09
2869	Bridgestone APM Company, Foam Products Division **(HPV)**	NWDO	DV/EY	02/11/08	10/06/09
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/JK	11/24/08	11/03/09
2873	Hanini Marathon - Superior	Cleve.	MG/EY		11/04/09
2875	Belle-Aire Cleaners	Akron	DV/		11/13/09
2877	Murphy Oil USA, Inc. (GDFs #6630, #7294, and #7371)	NEDO	SF/JK	07/27/09	11/30/09
2878	Pexco Packaging Corp.	TDES	DV/EY	03/13/09	12/01/09
2879 (112r)	City of Youngstown Wastewater Treatment Plant	N/A	MG/SS		12/04/09
2880	Prime Properties Limited Partnership, d.b.a. Prime #5	Cleve.	SF/EY		12/07/09
2881	Tube City IMS, LLC	NWDO	DV		12/10/09
2883	The Andersons Marathon Ethanol, LLC	RAPCA	MG/		12/28/09
2884 (112r)	Eaton Aeroquip, Inc.	N/A	SF/KJ		12/30/09
2885	Hughes-Roller Building Co./Sovereign SP, LLC (asbestos)	NEDO	MG/UD	07/07/09	12/08/09
2886	David Rose, d.b.a. Rose Excavating/Jacqueline MacAleese (asbestos)	NEDO	DV/TT	10/17/08	12/08/09

Updated: 01/14/10

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2887	Kimberly Dailey	SWDO	SF/EY		01/07/10
2888	Titan Tire Corporation	NWDO	MG/		01/20/10
2889	Kaz Paving, Inc./George Koustis (asbestos)	Lake Co.	DV/PP	01/08/09	01/15/10
2890	Seth Powers	Akron	SF/TT	02/05/09	01/15/10
2891	Stocker's Excavating LLC/Yoho Excavating, Inc. (asbestos)	MTAPCA	MG/FU	07/30/09	01/18/10

Updated: 01/14/10

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2010

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
2870	Brent Saionz, d.b.a. Simon Excavating	3	NWDO	TK	TT	MG	10/15/09					01/13/10	
2874	Ron Smith	3	NWDO	TK	FU	SF	11/09/09					01/12/10	

Total for the month of January = 8

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*
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**
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**

* 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.

* Paid $1,654 on 2/10/09. $165.40 of that amount was paid to AGO.

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	Cert. y/n	Completion Date
Richard and Joby Hackett	Civil penalty: ($3,000)					
(04/04/02)	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	Civil penalty: ($6,000)					
(09/18/02)	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	Civil penalty: ($10,000)					
(09/16/02)	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	Civil penalty: ($2,450)					
(11/27/02)	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	Civil penalty: ($7,000)					
(12/02/02)	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.	Civil penalty: ($35,000)					
(12/23/02)	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
Glo-Mar Masonry	Civil penalty: ($8,500)					
(02/06/03)	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)
Ford Motor Company,	Civil penalty: ($40,000)		413303	01/31/04		01/07/04
Cleveland Casting Plant	Submit modeling analysis			02/29/04		
(12/24/03)						
Minerva Enterprises, Inc.	Civil penalty: ($41,125)					
(12/31/03)		$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

* 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.

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

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	Civil penalty: ($19,000)				
(04/28/04)	$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	Civil penalty: ($3,000.00)	443684	05/27/04	Y	
(05/13/04)					
John Dubuk	Civil penalty: ($10,000.00)				
(12/29/04)	$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	Civil penalty: ($5,600.00)	479998	01/21/05	Y	*
(12/21/04)					
Bohanan Investments, Inc.	Civil penalty: ($127,900.00)	550712	04/14/05	Y	
(04/14/05 - Court Order, Default Judgement)					

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

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Columbus Steel Drum	Civil penalty: ($500,000.00)					
(07/06/05 - Consent Order)	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		10/15/09
		$21,250	726464	09/01/09		12/01/09
		$21,250	726465	11/01/09		11/30/09
		$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.

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Alfred Nickles Bakery, Inc.	Civil penalty: ($37,800)					
(08/24/05)	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		

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Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Shell Construction, Inc.	Civil penalty: ($3,700)					
(09/26/05)	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	

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Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Environmental Affairs Management	Civil penalty: ($10,000)					
(12/29/05)	OEPA	$1,000	541425	03/29/06		03/06/06
		$1,000	541426	03/29/06	Y	FSC**
		$1,000	541427	05/28/06	Y	FSC**
		$1,000	541428	06/27/06	Y	12/28/07
		$1,000	541429	07/27/06	Y	FSC**
		$1,000	541430	08/26/06	Y	FSC**
		$1,000	541431	09/25/06	Y	FSC**
		$1,000	541432	10/25/06	Y	ACT**
	Bus Fund	$1,000	541433	01/28/06		01/25/06
		$1,000	541434	02/27/06		02/25/06
Cargill, Incorporated	Civil penalty: ($61,538)					
(03/03/06 - Consent Decree)	OEPA	$30,769	551695	03/27/06		04/03/06
* - CD modification on 11/26/08	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.	SEP Project ($50,000)				
(03/20/06 -	Pay contractor for project		04/20/06		08/01/06
Consent Decree)	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*

* 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				Civil penalty		
(12/14/06)	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.	Civil penalty ($34,000)					
(12/29/06)	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.	Civil penalty: ($10,000)					
(03/14/07)	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	Civil penalty: ($1,000)		616290	08/11807	Y	ACT
(07/11/07)						
**********						
Eslich Wrecking Company	Civil penalty: ($44,853)		623581	08/16/07		08/20/07
(07/16/07 - Consent Order)	($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	Civil penalty: ($1,000)					
(08/21/07)	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 NOx/MMBtu for heaters and boilers			12/31/08		12/10/08
	Install controls to meet .060 lb NOx/MMBtu for heaters and boilers			12/31/11		
	Submit plan to meet .044 lb NOx/MMBtu for heaters and boilers			12/31/10		
	Install controls to meet .044 lb NOx/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 NOx concentration emissions for the FCCU thru optimization of O_2 CS			03/01/12		
	Submit report that demonstrates compliance w/ interim NOx system-wide average for FCCUs			03/31/11		
	Submit report that demonstrates compliance w/ final NOx system-wide average for FCCUs			03/31/14		
	Commence implementation of SO_2 adsorbing catalyst additive protocol for FCCU			11/20/07		09/07/07
	Comply w/ CO emission limit for FCCU			02/20/08		11/20/07
	Comply w/ opacity and PE limits for FCCU			12/31/13		
	Submit alternative monitoring plan application for NSPS Subpart J monitoring for SO_2 at FCCU			12/31/08		12/19/08

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

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
The Premcor Refining Group, Inc (Continued)	Transfer $50,000 to Ohio Environmental Council for control of emissions from municipal trucks and buses			02/20/08		01/18/08
**********						
E. I. Du Pont de Nemours & Company (11/06/07 - Consent Decree)	Civil penalty: ($550,000)					
	OEPA	$440,000	634777	12/06/07		12/19/07
	Bus Fund	$110,000	634778	12/06/07		12/19/07
	Comply w/ short-term SO_2 emission limit of 2.2 lbs/ton			03/01/11		
	Comply w/ Mass Cap of 281 TPY			03/01/13		
	Submit proposed O&M Plan for short-term SO_2 limit			11/01/10		
	Submit a complete T5 permit application for Consent Decree SO_2 limits			09/01/11		
**********						
Converters Prepress (12/06/07 - Consent Order)	Civil penalty: ($5,004)					
	OEPA	$139.00	644190	01/06/08		02/22/08
		$139.00	644191	02/06/08		03/26/08
		$139.00	644192	03/06/08		03/26/08
		$139.00	644193	04/06/08		04/04/08
		$139.00	644194	05/06/08		05/05/08
		$139.00	644195	06/06/08		05/30/08
		$139.00	644196	07/06/08		07/14/08
		$139.00	644197	08/06/08		08/04/08
		$139.00	644198	09/06/08		08/29/08
		$139.00	644199	10/06/08		09/29/08
		$139.00	644200	11/06/08		11/06/08
		$139.00	644201	12/06/08		12/02/08
		$139.00	644202	01/06/09		12/30/08
		$139.00	644203	02/06/09		02/09/09
		$139.00	644204	03/06/09		03/11/09
		$139.00	644205	04/06/09		03/31/09
		$139.00	644206	05/06/09		05/05/09
		$139.00	644207	06/06/09		06/01/09
		$139.00	644208	07/06/09		07/06/09
		$139.00	644209	08/06/09		08/07/09
		$139.00	644210	09/06/09		
		$139.00	644211	10/06/09		
		$139.00	644212	11/06/09		
		$139.00	644213	12/06/09		
		$139.00	644214	01/06/10		
		$139.00	644215	02/06/10		
		$139.00	644216	03/06/10		
		$139.00	644217	04/06/10		
		$139.00	644218	05/06/10		
		$139.00	644219	06/06/10		

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Converters Prepress (Con't)		$139.00	644220	07/06/10		
		$139.00	644221	08/06/10		
		$139.00	644222	09/06/10		
		$139.00	644223	10/06/10		
		$139.00	644224	11/06/10		
		$139.00	644225	12/06/10		
Real Spaces Property for Rent (12/31/07)	Civil penalty: ($17,700)					
	OEPA	$ 600.00	645338	01/30/08		02/07/08
		$ 600.00	645339	02/29/08		03/12/08
		$ 600.00	645340	03/30/08		05/05/08
		$ 600.00	645341	04/29/08		06/09/08
		$ 600.00	645342	05/29/08		07/03/08
		$ 600.00	645343	06/28/08		08/04/08
		$ 600.00	645344	07/28/08		09/11/08
		$ 600.00	645345	08/27/08		11/17/08
		$ 600.00	645346	09/26/08		01/13/09
		$ 600.00	645347	10/26/08	Y	
		$ 600.00	645348	11/25/08	Y	
		$ 600.00	645349	12/25/08	Y	
		$ 600.00	645350	01/24/09	Y	
		$ 600.00	645351	02/23/09		
		$ 600.00	645352	03/25/09		
		$ 600.00	645353	04/24/09		
		$ 600.00	645354	05/24/09		
		$ 600.00	645355	06/23/09		
		$3,360.00	645356	07/23/09		
	Bus Fund	$3,560	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		09/28/09
		$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		01/15/10
	Bus Fund	$4,000	707978	04/23/09		04/27/09

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		
			Cairo	07/01/11		
	Submit O&M Plans:		Oregon	07/01/11		
			Cairo	07/01/11		
	Submit permit applications:		Oregon	07/01/11		
			Cairo	07/01/11		
	Submit report re: how compliance will be achieved:		Oregon	01/01/13 (365 days after acceptance of short-term limit)		
			Cairo			
			Oregon	07/01/10		
			Cairo	07/01/10		
**********						
Lagrange Township Trustees (04/14/09)	Civil penalty: ($250)		713233	05/14/09		
	Report the results of vehicle inspections			12/31/09		
**********						
George Rank (04/16/09)	Civil penalty: ($500)		713237	05/16/09		
**********						
Richard Morrow (05/01/09)	Civil penalty: ($3,000)		713246	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	713429	10/23/09		10/21/09
		$21,762.50	713430	01/18/10		
		$21762.50	713431	04/16/10		
	Bus Fund	$10,881.25	713432	06/05/09		06/01/09
		$10,881.25	713433	07/17/09		07/16/09
**********						
Plasti-Kote Company, Inc. (06/17/09)	Civil penalty: ($240,000)					
	OEPA	$192,000	714631	07/01/09		08/21/09
	Bus Fund	$48,000	714632	07/17/09		08/21/09
	Submit either a Title V permit app or a synthetic minor PTI/FESOP app			10/17/09		
**********						
T.S. Trim Industries, Inc. (06/17/09)	Civil penalty: ($85,200)					
	OEPA	$68,160	714704	07/17/09		06/25/09
	Bus Fund	$17,040	714705	07/17/09		06/25/09
	Conduct emission tests			08/07/09		
	Submit test report			09/07/09		
**********						
Village of Gloria Glens (06/18/09)	Civil penalty: ($250)		714659	07/18/09		
	Have all vehicles tested and report results			12/31/09		
**********						
Village of North Randall (06/30/09)	Civil penalty: ($1,500)		714660	07/30/09		
	Have all vehicles tested and report results			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	715181	09/15/09		09/14/09
		$7,500	715182	09/15/10		
	Bus Fund	$3,000	715183	09/15/09		09/14/09
**********						
Village of Oakwood (07/07/09)	Civil penalty: ($2,500)		714842	08/07/09		08/17/09
	Have all vehicles tested and report results			11/02/09		
**********						

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		09/01/09
	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		11/30/09
		$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		09/29/09
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	727529	10/01/09		09/18/09
	Bus Fund	$1,000	727530	10/17/09		09/18/09

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Speedway SuperAmerica, LLC	Civil penalty: ($35,880)					
(09/22/09)	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			04/14/10		
	A/L ratio tests for 2010			09/14/10		
	Submit results of static leak and			04/14/11		
	A/L ratio tests for 2011			09/14/11		
**********						
Stein, Inc.	Civil penalty: ($50,000)					
(10/13/09)	Bus Fund	$10,000	735700	11/13/09		10/23/09
	OEPA	$10,000	735696	05/13/10		
		$10,000	735697	08/13/10		
		$10,000	735698	11/13/10		
		$10,000	735700	02/13/11		
**********						
Joseph and Marie Eberz	Civil penalty: ($500)		735796	11/19/09		
(10/19/09)						
**********						
CertainTeed Corp	Civil penalty: ($230,000)					
(10/19/09 - CO)	OEPA	$184,000	735799	11/19/09		11/05/09
	Bus Fund	$ 46,000	735800	11/19/09		11/05/09
	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.	Civil penalty: ($334,545)			when U.S. Bankruptcy court for District of Delaware decides		
(10/30/09 - CO)						
	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		
	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		
**********						

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Circle K Midwest	Civil penalty: ($100,000)					
(GDFs 5204, 5209, 5318, 5320, 5557,	OEPA	$80,000	735797	12/04/09		11/13/09
5558, 0059, and 5217)	Bus Fund	$20,000	735798	12/04/09		11/13/09
(11/04/09)	Perform static leak & A/L ratio tests at each GDF			03/31/10		
				08/31/10		
				03/31/11		
				08/31/11		
**********						
Rascal House Pizza	Civil penalty: ($10,000)					
(11/12/09)	OEPA	$1,250	746346	12/12/09		12/07/09
		$1,250	746347	03/12/10		
		$1,250	746348	06/12/10		
		$1,250	746349	09/12/10		
		$1,250	746350	12/12/10		
		$1,250	746351	03/12/11		
		$1,250	746352	06/12/11		
		$1,250	746353	09/12/11		
**********						
Great Plains Exploration	Civil penalty: ($19,000)					
(11/12/09)	OEPA	$1,000	746093	03/01/10		
		$1,000	746094	04/01/10		
		$1,000	746095	05/01/10		
		$1,000	746096	06/10/10		
		$1,000	746097	07/01/10		
		$1,000	746098	08/01/10		
		$1,000	746099	09/01/10		
		$1,000	746100	10/01/10		
		$1,000	746101	11/01/10		
		$1,000	746102	12/01/10		
		$1,000	746103	01/01/11		
		$1,000	746104	02/01/11		
		$1,000	746105	03/01/11		
		$1,000	746106	04/01/11		
		$1,000	746107	05/01/11		
	Bus Fund	$1,000	746108	11/01/09		
		$1,000	746109	12/01/09		
		$1,000	746110	01/01/10		
		$1,000	746111	02/01/10		
**********						
Sunoco, Inc. (Toledo Refinery)	Civil penalty: ($32,250)					
(11/12/09)	OEPA	$25,800	746355	11/26/09		11/06/09
	Bus Fund	$6,450	746356	12/12/09		11/06/09
	Complete corrective actions in Finding 15(a) and submit documentation			12/31/09		
	Correct deficiencies in butane sphere inspection reports and submit documentation			06/30/10		
	Resolve compliance audit findings in Finding 14(c) and submit documentation			12/31/09		
**********						

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Thermo-Rite Manufacturing Company, Inc. (12/02/09)	Civil penalty: ($36,000)					
	OEPA	$ 800	747314	03/01/10		
		$2,000	747315	04/01/10		
		$2,000	747316	05/01/10		
		$2,000	747317	06/01/10		
		$2,000	747318	07/01/10		
		$2,000	747319	08/01/10		
		$2,000	747320	09/01/10		
		$2,000	747321	10/01/10		
		$2,000	747322	11/01/10		
		$2,000	747323	12/01/10		
		$2,000	747324	01/01/11		
		$2,000	747325	02/01/11		
		$2,000	747326	03/01/11		
		$2,000	747327	04/01/11		
		$2,000	747328	05/01/11		
	Bus Fund	$2,000	747329	12/01/09		11/30/09
		$2,000	747330	01/01/10		12/23/09
		$2,000	747331	02/01/10		01/21/10
		$1,200	747332	03/01/10		
D & R Supply, Inc. (12/02/09)	Civil penalty: ($20,000)					
	OEPA	$5,000	746313	01/01/10		12/22/09
		$2,750	746314	04/01/10		
		$2,750	746315	07/01/10		
		$2,750	746316	10/01/10		
		$2,750	746317	01/01/11		
	Bus Fund	$4,000	746318	12/01/09		11/06/09
Evonik Degussa Engineered Carbons Corp. (12/17/09)	Civil penalty: ($34,310)					
	OEPA	$27,448		01/17/10		12/17/09
	Bus Fund	$ 6,862		01/14/10		12/17/09
Emery Oleochemicals, LLC (12/17/09)	Civil penalty: ($57,400)					
	OEPA	$28,700	747345	12/31/09		12/09/09
	Bus Fund	$28,700	747346	12/31/09		12/09/09
	For odor emission control system for P004 (penalty credit project):					
	submit plans			03/01/10		
	issue purchase odors			07/01/10		
	initiate construction			10/01/10		
	complete construction			12/31/10		
	submit documentation of spending at least $340,000			01/31/11		

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Quality Ready Mix, Inc. (12/22/09)	Civil penalty: ($15,000)					
	OEPA	$12,000		01/05/10		01/05/10
	Bus Fund	$ 3,000		01/05/10		01/05/10
Robert Schiekh (12/22/09)	Civil penalty: ($750)			01/22/10		
D. Todd Hosea, d.b.a. Hosea Project Movers (12/23/09)	Civil penalty: ($22,000)					
	OEPA	$4,400		03/23/10		
		$4,400		06/23/10		
		$4,400		09/23/10		
		$4,400		12/23/10		
	Bus Fund	$4,400		01/23/10		
Randy Wise (12/23/09)	Civil penalty: ($250)			01/23/10		
Ameriseal & Restoration, LLC (12/30/09)	Civil penalty: ($6,700)					
	OEPA	$ 860		01/15/10		01/15/10
		$2,200		02/15/10		
		$2,300		03/15/10		
	Bus Fund	$1,340		01/15/10		01/15/10
Republic Engineered Products, Inc. (12/30/09)	Civil penalty: ($30,600)					
	OEPA	$24,480		02/15/10		
	Bus Fund	$ 6,120		02/15/10		
Mark A. Mirich, d.b.a.	Civil penalty: ($25,000)					
		$800	02/15/10			
		$800	03/15/10			
		$800	04/15/10			
		$800	05/15/10			
		$800	06/15/10			
		$800	07/15/10			
		$800	08/15/10			
		$800	09/15/10			
		$800	10/15/10			
		$800	11/15/10			
		$800	12/15/10			
		$800	01/15/11			
		$800	02/15/11			
		$800	03/15/11			
		$800	04/15/11			
		$800	05/15/11			
		$800	06/15/11			
		$800	07/15/11			
		$800	08/15/11			
		$800	09/15/11			
		$800	10/15/11			

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Mark A. Mirich, d.b.a. All Demolition (Con't) (12/28/09 - CO)	OEPA (Con't)	$800		11/15/11		
		$800		12/15/11		
		$800		01/15/12		
		$800		02/15/12		
	Bus Fund	$200		02/15/10		
		$200		03/15/10		
		$200		04/15/10		
		$200		05/15/10		
		$200		06/15/10		
		$200		07/15/10		
		$200		08/15/10		
		$200		09/15/10		
		$200		10/15/10		
		$200		11/15/10		
		$200		12/15/10		
		$200		01/15/11		
		$200		02/15/11		
		$200		03/15/11		
		$200		04/15/11		
		$200		05/15/11		
		$200		06/15/11		
		$200		07/15/11		
		$200		08/15/11		
		$200		09/15/11		
		$200		10/15/11		
		$200		11/15/11		
		$200		12/15/11		
		$200		01/15/12		
		$200		02/15/12		
**********						
Tinkler Construction, Co. (12/30/09 - CO)	Civil penalty: ($14,500)					
	OEPA	$11,600		01/30/10		
	Bus Fund	$ 2,900		01/30/10		
**********						
Sugar Creek Packing Co. (01/14/10) (Washington Courthouse)	Civil penalty: ($5,312)					
	OEPA	$4,250		01/28/10		01/07/10
	Bus Fund	$1,062		01/28/10		01/07/10
**********						
Sugar Creek Packing Co. (01/14/10) (Dayton)	Civil penalty: ($10,880 w/ SEP)					
	OEPA	$4,656		01/28/10		01/07/10
	Bus Fund	$2,176		01/28/10		01/07/10
**********						
New Day Farms, LLC, et al. (01/11/10)	Civil penalty: ($55,200)					
	OEPA	$44,160		02/11/10		
	Bus Fund	$11,040		02/11/10		
**********						

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
ConSun Food Industries, Inc. (01/14/10)	Civil penalty: ($17,250)					
	OEPA	$1,600		02/14/10		
		$4,000		05/14/10		
		$4,000		08/14/10		
		$4,200		11/14/10		
	Bus Fund	$3,450		02/14/10		
	Perform static leak & A/L ratio tests at each GDF			03/31/10 08/31/10 03/31/11 08/31/11		
Brent Saionz, d.b.a. Simon Excavating (01/13/10)	Civil penalty: ($2,000)			01/27/10		
Ron Smith (01/12/10)	Civil penalty: ($250)		748562	02/12/10		01/18/10

** 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

OhioEPA
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

January 14, 2010

CERTIFIED MAIL

Mr. Christopher Weist, Esq.
Thompson Hine, LLP
2000 Courthouse Plaza, N.E.
P.O. Box 8801
Dayton, Ohio 45401-8801

Re: Final Findings and Orders for: Sugar Creek Packing Co. (Washington Courthouse)

Dear Mr. Weist:

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

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 # N/A)
Donald L. Vanterpool, Legal Office
Sherri Swihart, DAPC
Ron Bryant, Sugar Creek Packing Co.

OHIO E.P.A.

JAN 14 2010

ENTERED DIRECTOR'S JOURNAL

BEFORE THE OHIO

ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Sugar Creek Packing Co. :
2101 ½ Kenskill Avenue :
Washington Courthouse, Ohio 43160 :

Director's Final Findings and Orders

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

By: Mark Lassiter Date: 1-14-10

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Sugar Creek Packing Co. ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3753.08 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 owned by the Respondent shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

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

IV. FINDINGS

The Director of the Ohio EPA makes the following findings:

1. Respondent owns and operates a bacon processing facility located at 2101 ½ Kenskill Avenue in Washington Courthouse, Ohio. Anhydrous ammonia is used in the refrigeration process. The quantity of anhydrous ammonia at the facility is approximately 13,000 pounds.

2. Anhydrous ammonia is a regulated substance listed in Ohio Administrative Code ("OAC") Rule 3745-104-04. An owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as

determined by OAC Rule 3745-104-02, shall comply with the requirements of OAC Rules 3745-104-06 through 49, where applicable, by submitting a Risk Management Plan ("RMP") and implementing a prevention program no later than June 21, 1999. On January 3, 2000, Ohio EPA, DAPC received delegation for the RMP program from U.S. EPA.

3. Anhydrous ammonia has a threshold of 10,000 pounds. Respondent stores anhydrous ammonia in an amount that exceeds the threshold established in OAC Rule 3745-104-04, and, as a result, Respondent is subject to the RMP requirements detailed in OAC Rule 3745-104-06.

4. On January 3, 2008, an RMP audit was conducted at the facility by Ohio EPA, DAPC. During the audit it was determined that an RMP was not submitted to U.S. EPA and Ohio EPA in June 1999, in violation of OAC Rule 3745-104-38(B). The date of receipt of the RMP is September 11, 2007. Respondent indicated that the RMP was completed in 2004 but had not been submitted. However, a plan dated prior to September 2007 was not available on-site.

5. The RMP prevention program elements were reviewed during the audit. It was determined that many of these elements were not implemented until 2004. RMP prevention program elements were not implemented in June 1999, in violation of OAC Rules 3745-104-24 through -35.

6. ORC § 3753.06 prohibits violations of provisions ORC Chapter 3753 or any rule adopted or issued under it. Respondent violated rules adopted under ORC Chapter 3753, specifically, the rules cited in Findings 4 and 5.

7. 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 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 continue to implement the compliant RMP program.

2. Pursuant to ORC § 3753.09, Respondent shall pay the amount of five thousand three hundred twelve dollars ($5,312) in settlement of Ohio EPA's claim for civil penalties. 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 four thousand two hundred fifty dollars ($4,250) of the

total amount which will be deposited into the Risk Management Plan fund established pursuant to ORC § 3753.05. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

3. In lieu of paying the remaining one thousand sixty two dollars ($1,062) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $1,062 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 $1,062. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondent, the facility, and fund 5CD0 to:

Ohio EPA
Office of Fiscal Administration
Lazarus Government Center
50 West Town Street, Suite 700
Columbus, Ohio 43216-1049

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

Ohio EPA
Division of Air Pollution Control
Lazarus Government Center
50 West Town Street, Suite 700
Columbus, Ohio 43216-1049

5. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 3, Respondent shall immediately pay to Ohio EPA $1,062 of the civil penalty in accordance with the procedures in Order 2.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air

Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

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 purposes of these Orders, a responsible official is the person authorized to sign in OAC Rule 3745-35-02(B)(1) for a corporation or a duly authorized representative of Respondent as that term is defined in the above-referenced rule.

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 facility.

VIII. OTHER APPLICABLE LAWS

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

IX. MODIFICATIONS

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

X. NOTICE

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

Ohio Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Sherri Swihart

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

XI. RESERVATION OF RIGHTS

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

XII. WAIVER

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

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

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

1/12/10
Date

IT IS SO AGREED:

Sugar Creek Packing Co.

Signature

12/30/09
Date

Thomas J Ballinger
Printed or Typed Name

Date

Chief Financial Officer
Title

OhioEPA
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

January 14, 2010

CERTIFIED MAIL

Mr. Christopher Weist, Esq.
Thompson Hine, LLP
2000 Courthouse Plaza, N.E.
P.O. Box 8801
Dayton, Ohio 45401-8801

Re: Final Findings and Orders for Sugar Creek Packing Co. (Dayton)

Dear Mr. Weist:

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

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

JAO/pr

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Carol Hester, PIC
Priscilla Roberson, DAPC
Brenda Case, Fiscal Office (Agency # NA)
Donald L. Vanterpool, Legal Office
Sherri Swihart, DAPC
Thomas Ward, Sugar Creek Packing Co.

BEFORE THE OHIO

ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

JAN 14 2010

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Sugar Creek Packing Co.
1241 N. Gettysburg Avenue
Dayton, Ohio 45427

Director's Final Findings and Orders

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

By: [signature] Date: 1-14-10

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Sugar Creek Packing Co. ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3753.08 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 owned by the Respondent shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

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

IV. FINDINGS

The Director of the Ohio EPA makes the following findings:

1. Respondent owns and operates a bacon processing facility located at 1241 North Gettysburg Avenue in Dayton, Ohio. Anhydrous ammonia is used in the refrigeration process. There are two ammonia refrigeration processes located in different buildings. Plant 1 has 7,847 pounds and Plant 2 has 18,156 pounds. The quantity of anhydrous ammonia at the facility is approximately 26,000 pounds. Plant 2 was not operating until 2002. A specific date for startup of the process was unavailable from Respondent.

2. Anhydrous ammonia is a regulated substance listed in Ohio Administrative Code ("OAC") Rule 3745-104-04. An owner or operator of a stationary source that has

more than a threshold quantity of a regulated substance in a process, as determined by OAC Rule 3745-104-02, shall comply with the requirements of OAC Rules 3745-104-06 through 49, where applicable, by submitting a Risk Management Plan ("RMP") and implementing a prevention program no later than June 21, 1999 or no later than when the threshold limit is exceeded in a process. On January 3, 2000, Ohio EPA, DAPC received delegation for the RMP program from U.S. EPA.

3. Anhydrous ammonia has a threshold of 10,000 pounds. Respondent stores anhydrous ammonia in an amount that exceeds the threshold established in OAC Rule 3745-104-04, and, as a result, Respondent is subject to the RMP requirements detailed in OAC Rule 3745-104-06.

4. On March 26, 2008, an RMP audit was conducted at the facility by Ohio EPA, DAPC. During the audit it was determined that an RMP was not submitted in 2002 to U.S. EPA and Ohio EPA when the process exceeded the threshold of 10,000 pounds for ammonia, in violation of OAC Rule 3745-104-38(B). The date of receipt of the RMP is August 31, 2007. Respondent indicated that the RMP was completed in 2002, but had not been submitted; however, a plan dated prior to August 2007 was not available on site.

5. The RMP prevention program elements were reviewed during the audit. It was determined that many of these elements were implemented in 2002.

6. ORC § 3753.06 prohibits violations of provisions ORC Chapter 3753 or any rule adopted or issued under it. Respondent violated rules adopted under ORC Chapter 3753, specifically, the rules cited in Findings 3 and 4.

7. 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 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 continue to implement the compliant RMP program.

2. Pursuant to ORC § 3753.09, Respondent shall pay the amount of ten thousand eight hundred eighty dollars ($10,880) in settlement of Ohio EPA's claim for civil penalties. 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 four thousand six hundred fifty-six dollars ($4,656) of

the total amount which will be deposited into the Risk Management Plan fund established pursuant to ORC § 3753.05. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

3. In lieu of paying the remaining six thousand two hundred twenty-four dollars ($6,224) of the civil penalty, Respondent shall fund the supplemental environmentally beneficial projects ("SEP") identified in Orders 4 and 5. Of the $6,224, $2,176 shall be used to fund the project in Order 4, and $4,048 shall be used to fund the project in Order 5. In the event Respondent defaults or otherwise fails to complete any of the projects as specified in Orders 4 and 5, the $2,176 for the project in Order 4 and/or the $4,048 for the project in Order 5, whichever is (are) applicable, shall immediately become due and payable to Ohio EPA. Such payment shall be made by an official check made payable to "Treasurer, State of Ohio" and sent to Brenda Case, or her successor, together with a letter identifying the Respondent, to the above-stated address. A copy of the check shall be sent to James A. Orlemann, or his successor, at the above-stated address.

4. Respondent shall fund a SEP by making a contribution in the amount of two thousand one hundred seventy-six dollars ($2,176) to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD0). Respondent shall make payment within thirty (30) days after the effective date of these Orders by an official check made payable to "Treasurer, State of Ohio" for $2,176. The official check shall specify that such monies are to be deposited into Fund 5CD0 established by Ohio EPA for the Clean Diesel School Bus Program. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to the above-stated address. A copy of this check shall also be sent to James A. Orlemann, or his successor, at the above-stated address.

5. Respondent shall fund a SEP that consists of spending at least four thousand forty-eight dollars ($4,048) to install a wet rotoclone for emissions unit P003 (impingement oven) at Respondent's Washington Courthouse facility (0124010141) to effectively control the particulate emissions from the emissions unit. The SEP shall be completed within six months after the effective date of these Orders.

6. By not later than August 1, 2010, Respondent shall submit documentation to Ohio EPA showing that the total installed cost of the SEP in Order 5 exceeded $4,048.

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 purposes of these Orders, a responsible official is the person authorized to sign in OAC Rule 3745-35-02(B)(1) for a corporation or a duly authorized representative of Respondent as that term is defined in the above-referenced rule.

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 facility.

VIII. OTHER APPLICABLE LAWS

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

IX. MODIFICATIONS

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

X. NOTICE

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

Ohio Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Sherri Swihart

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

XI. RESERVATION OF RIGHTS

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

XII. WAIVER

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

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

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

1/12/10
Date

IT IS SO AGREED:

Sugar Creek Packing Co. - Dayton

Signature

12/30/09
Date

Thomas J Bollinger
Printed or Typed Name

Date

Chief Financial Officer
Title

OhioEPA
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

January 11, 2010

Certified Mail

Mr. Barry F. Clegg
500 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402-3796

Re: Final Findings and Orders for Violations of Ohio's Air Regulations by New Day Farms, LLC

Dear Mr. Clegg:

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 stamped on the first page of the Orders.

Sincerely,

James A. Orlemann

James A. Orlemann, P.E.
Assistant Chief
SIP Development & Enforcement Section

JAO/jp

Enclosure

xc: Carol Hester, PIC
Stephen Feldmann, Legal Office
Brenda Case, Fiscal Office (Agency #N/A)
Priscilla Roberson, DAPC
Tom Kalman, DAPC
John Paulian, DAPC
Adam Ward, DAPC/CDO

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
JAN 12 2010
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Henning Construction Company	:	**Director's Final Findings and Orders**
5800 Merle Hay Road	:	
Suite 14	:	
P.O. Box 394	:	
Johnston, IA 50131	:	
and		
New Day Farms, LLC	:	
27322 State Route 739	:	
Raymond, Ohio 43067	:	
and		
Reichert Excavating Incorporated	:	
11418 State Route 274	:	
Lewistown, Ohio 43333	:	

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

By: [signature] Date: 1-12-10

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Henning Construction Company, New Day Farms, LLC, and Reichert Excavating Incorporated ("Respondents"), 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 Respondents and successors in interest liable under Ohio law. No change in ownership of Respondents or of the Facility (as hereinafter defined) shall in any way alter Respondents' 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 the Ohio EPA has determined the following findings:

1. Respondents were the "owner/operators" of the facilities being demolished at New Day Farms located at 27322 State Route 739 in Raymond, Ohio as that term (owners/operators) is defined in the Ohio Administrative Code ("OAC") Rule 3745-20-01(B).

2. Respondent New Day Farms is the owner of several poultry barns at its Raymond, Ohio facility. Respondent Henning Construction company was hired by New Day Farms to be the general contractor for the demolition of several poultry barns at the Raymond, Ohio facility.

3. Respondent Reichert Excavating Incorporated was hired by Henning Construction Company to be the demolition contractor for several poultry barns at the New Day Farms Raymond, Ohio facility.

4. On June 12, 2008, Ohio EPA Central District Office ("CDO") received an anonymous complaint that demolition of the poultry barns was occurring at New Day Farms. The complainant was concerned that the poultry barns contained asbestos.

5. ORC Chapter 3704.05(G) states, in part, that no person shall violate any rule issued by the Director of Ohio EPA.

6. On June 12, 2008, a CDO inspector visited New Day Farms and inspected the demolition project. When the CDO inspector arrived on site, two barns had already been demolished and removed from the site. Two additional barns were in the process of being demolished. Samples collected from a hard transite material present in each of the barns indicated the presence of asbestos above the regulated level.

7. During the inspection, CDO discovered multiple violations of OAC Chapter 3745-20. Specifically, Respondents' actions at the demolition sites violated:

- OAC Rule 3745-20-02(A) by failing to conduct a thorough inspection for asbestos prior to beginning the demolition.

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

- OAC Rule 3745-20-04(A)(1) by failing to remove all regulated asbestos-containing materials ("ACM") prior to conducting demolition activities.

- OAC Rule 3745-20-03(B)(1) by not having an authorized person trained in the provisions of OAC Rule 3745-20-04(B) on site during demolition.

- OAC Rule 3745-20-05(B)(1) by failing to control visible emissions during the demolition.

- OAC Rule 3745-20-04(A)(6)(a) by failing to adequately wet ACM during demolition.

- OAC Rule 3745-20-04(C)92) by failing to ensure that all regulated ACM which has been damaged or made friable by demolition are repaired, encapsulated, or removed in accordance with OAC Rule 3745-20-05.

8. After CDO visited the facility, the demolition project was halted and Central Insulation Services was hired to complete the asbestos abatement. The asbestos abatement was completed on August 15, 2008.

9. On July 7, November 21, and December 4, 2008, notice of violation ("NOV") letters were sent to Respondents for violations of OAC Chapter 3745-20.

10. 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. Respondents shall pay the amount of fifty-five thousand two hundred dollars ($55,200) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by official check made payable to "Treasurer, State of Ohio" for forty-four thousand one hundred sixty dollars ($44,160) of the total amount within 30 days of the effective date of these Orders. The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents 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 eleven thousand forty dollars ($11,040) of civil penalty, Respondents shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $11,040 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondents shall tend an official check in the amount of $11,040 due within 30 days of the effective date of these Orders. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents and Fund 5CD0, to the above-stated address.

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
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, OH 43216 - 1049

4. Should Respondents fail to fund the SEP within the required timeframe set forth in Order 2, Respondents shall immediately pay to Ohio EPA $11,040 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate upon Ohio EPA's receipt of the valid official checks 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 Respondents.

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 Respondents pursuant to these Orders shall be addressed to:

Ohio EPA
Central District Office
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Richard Fowler

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, Respondents consent 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 Respondents' liability for the violations specifically cited herein.

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

12/22/09
Date

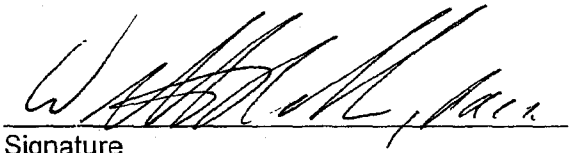
IT IS SO AGREED:

Henning Construction Company

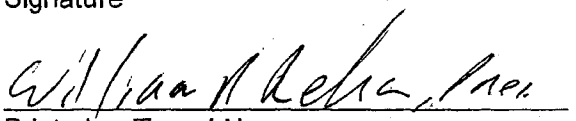
Signature _____ Date _____

Printed or Typed Name _____

New Day Farms, LLC



Signature 12/8/09
Date



Printed or Typed Name

Reichert Excavating Incorporated

Signature _____ Date _____

Printed or Typed Name _____

IT IS SO AGREED:

Henning Construction Company

Signature _____ Date _____

Printed or Typed Name _____

New Day Farms, LLC

Signature _____ Date _____

Printed or Typed Name _____

Reichert Excavating Incorporated

Signature _____ Date 12-11-09

Daniel J Reichert
Printed or Typed Name

IT IS SO AGREED:

Henning Construction Company

_____ _____
Signature Date

_____
Printed or Typed Name

New Day Farms, LLC

_____ _____
Signature Date

_____
Printed or Typed Name

Henning Construction Company
~~Reichert Excavating Incorporated~~

[signature] 11/24/09
Signature Date

ALAN LOCK CEO
Printed or Typed Name

HENNING CONST CO.

OhioEPA
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

January 11, 2010

Certified Mail

Mr. Frank M. Grenard
Johnson & Bell
33 West Monroe Street
Suite 2700
Chicago, Illinois 60603-5404

Re: Final Findings and Orders for
Violations of Ohio's Air Regulations
by Henning Construction Company

Dear Mr. Grenard:

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 stamped on the first page of the Orders.

Sincerely,

James A. Orlemann

James A. Orlemann, P.E.
Assistant Chief
SIP Development & Enforcement Section

JAO/jp

Enclosure

xc: Carol Hester, PIC
Stephen Feldmann, Legal Office
Brenda Case, Fiscal Office (Agency #N/A)
Priscilla Roberson, DAPC
Tom Kalman, DAPC
John Paulian, DAPC
Adam Ward, DAPC/CDO

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
JAN 12 2010
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Henning Construction Company	:	**Director's Final Findings**
5800 Merle Hay Road	:	**and Orders**
Suite 14	:	
P.O. Box 394	:	
Johnston, IA 50131	:	
and		
New Day Farms, LLC	:	
27322 State Route 739	:	
Raymond, Ohio 43067	:	
and		
Reichert Excavating Incorporated	:	
11418 State Route 274	:	
Lewistown, Ohio 43333	:	

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

By: Amy Lassiter Date: 1-12-10

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Henning Construction Company, New Day Farms, LLC, and Reichert Excavating Incorporated ("Respondents"), 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 Respondents and successors in interest liable under Ohio law. No change in ownership of Respondents or of the Facility (as hereinafter defined) shall in any way alter Respondents' 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 the Ohio EPA has determined the following findings:

1. Respondents were the "owner/operators" of the facilities being demolished at New Day Farms located at 27322 State Route 739 in Raymond, Ohio as that term (owners/operators) is defined in the Ohio Administrative Code ("OAC") Rule 3745-20-01(B).

2. Respondent New Day Farms is the owner of several poultry barns at its Raymond, Ohio facility. Respondent Henning Construction company was hired by New Day Farms to be the general contractor for the demolition of several poultry barns at the Raymond, Ohio facility.

3. Respondent Reichert Excavating Incorporated was hired by Henning Construction Company to be the demolition contractor for several poultry barns at the New Day Farms Raymond, Ohio facility.

4. On June 12, 2008, Ohio EPA Central District Office ("CDO") received an anonymous complaint that demolition of the poultry barns was occurring at New Day Farms. The complainant was concerned that the poultry barns contained asbestos.

5. ORC Chapter 3704.05(G) states, in part, that no person shall violate any rule issued by the Director of Ohio EPA.

6. On June 12, 2008, a CDO inspector visited New Day Farms and inspected the demolition project. When the CDO inspector arrived on site, two barns had already been demolished and removed from the site. Two additional barns were in the process of being demolished. Samples collected from a hard transite material present in each of the barns indicated the presence of asbestos above the regulated level.

7. During the inspection, CDO discovered multiple violations of OAC Chapter 3745-20. Specifically, Respondents' actions at the demolition sites violated:

- OAC Rule 3745-20-02(A) by failing to conduct a thorough inspection for asbestos prior to beginning the demolition.

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

- OAC Rule 3745-20-04(A)(1) by failing to remove all regulated asbestos-containing materials ("ACM") prior to conducting demolition activities.

- OAC Rule 3745-20-03(B)(1) by not having an authorized person trained in the provisions of OAC Rule 3745-20-04(B) on site during demolition.

- OAC Rule 3745-20-05(B)(1) by failing to control visible emissions during the demolition.

- OAC Rule 3745-20-04(A)(6)(a) by failing to adequately wet ACM during demolition.

- OAC Rule 3745-20-04(C)92) by failing to ensure that all regulated ACM which has been damaged or made friable by demolition are repaired, encapsulated, or removed in accordance with OAC Rule 3745-20-05.

8. After CDO visited the facility, the demolition project was halted and Central Insulation Services was hired to complete the asbestos abatement. The asbestos abatement was completed on August 15, 2008.

9. On July 7, November 21, and December 4, 2008, notice of violation ("NOV") letters were sent to Respondents for violations of OAC Chapter 3745-20.

10. 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. Respondents shall pay the amount of fifty-five thousand two hundred dollars ($55,200) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by official check made payable to "Treasurer, State of Ohio" for forty-four thousand one hundred sixty dollars ($44,160) of the total amount within 30 days of the effective date of these Orders. The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents 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 eleven thousand forty dollars ($11,040) of civil penalty, Respondents shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $11,040 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondents shall tend an official check in the amount of $11,040 due within 30 days of the effective date of these Orders. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents and Fund 5CD0, to the above-stated address.

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
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, OH 43216 - 1049

4. Should Respondents fail to fund the SEP within the required timeframe set forth in Order 2, Respondents shall immediately pay to Ohio EPA $11,040 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate upon Ohio EPA's receipt of the valid official checks 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 Respondents.

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 Respondents pursuant to these Orders shall be addressed to:

Ohio EPA
Central District Office
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Richard Fowler

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, Respondents consent 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 Respondents' liability for the violations specifically cited herein.

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

12/22/09
Date

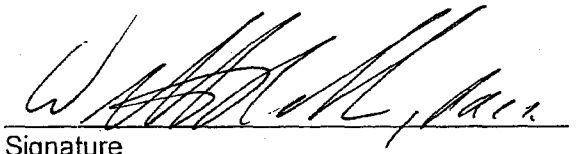
IT IS SO AGREED:

Henning Construction Company

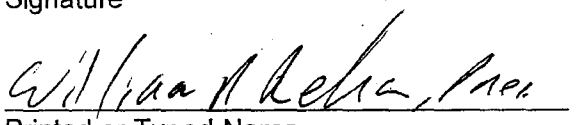
Signature _____ Date _____

Printed or Typed Name _____

New Day Farms, LLC



Signature Date 12/8/09



Printed or Typed Name

Reichert Excavating Incorporated

Signature _____ Date _____

Printed or Typed Name _____

IT IS SO AGREED:

Henning Construction Company

_____ _____
Signature Date

_____
Printed or Typed Name

New Day Farms, LLC

_____ _____
Signature Date

_____
Printed or Typed Name

Reichert Excavating Incorporated

Daniel J Reichert 12-11-09
Signature Date

Daniel J Reichert
Printed or Typed Name

IT IS SO AGREED:

Henning Construction Company

Signature _____ Date _____

Printed or Typed Name _____

New Day Farms, LLC

Signature _____ Date _____

Printed or Typed Name _____

Henning Construction Company
~~Reichert Excavating Incorporated~~

Signature _____ Date 11/24/09

ALAN KOCH CEO
Printed or Typed Name

HENNING CONST CO.

OhioEPA
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

January 11, 2010

Certified Mail

Mr. Christopher Walker
137 North Main Street
Suite 316
Dayton, Ohio 4502-1772

Re: Final Findings and Orders for Violations of Ohio's Air Regulations by Reichert Excavating Inc.

Dear Mr. Walker:

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 stamped on the first page of the Orders.

Sincerely,

James A. Orlemann

James A. Orlemann, P.E.
Assistant Chief
SIP Development & Enforcement Section

JAO/jp

Enclosure

xc: Carol Hester, PIC
Stephen Feldmann, Legal Office
Brenda Case, Fiscal Office (Agency #N/A)
Priscilla Roberson, DAPC
Tom Kalman, DAPC
John Paulian, DAPC
Adam Ward, DAPC/CDO

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
JAN 12 2010
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Henning Construction Company	:	**Director's Final Findings and Orders**
5800 Merle Hay Road	:	
Suite 14	:	
P.O. Box 394	:	
Johnston, IA 50131	:	
and		
New Day Farms, LLC	:	
27322 State Route 739	:	
Raymond, Ohio 43067	:	
and		
Reichert Excavating Incorporated	:	
11418 State Route 274	:	
Lewistown, Ohio 43333	:	

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

By: Amy Lassiter Date: 1-12-10

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Henning Construction Company, New Day Farms, LLC, and Reichert Excavating Incorporated ("Respondents"), 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 Respondents and successors in interest liable under Ohio law. No change in ownership of Respondents or of the Facility (as hereinafter defined) shall in any way alter Respondents' 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 the Ohio EPA has determined the following findings:

1. Respondents were the "owner/operators" of the facilities being demolished at New Day Farms located at 27322 State Route 739 in Raymond, Ohio as that term (owners/operators) is defined in the Ohio Administrative Code ("OAC") Rule 3745-20-01(B).

2. Respondent New Day Farms is the owner of several poultry barns at its Raymond, Ohio facility. Respondent Henning Construction company was hired by New Day Farms to be the general contractor for the demolition of several poultry barns at the Raymond, Ohio facility.

3. Respondent Reichert Excavating Incorporated was hired by Henning Construction Company to be the demolition contractor for several poultry barns at the New Day Farms Raymond, Ohio facility.

4. On June 12, 2008, Ohio EPA Central District Office ("CDO") received an anonymous complaint that demolition of the poultry barns was occurring at New Day Farms. The complainant was concerned that the poultry barns contained asbestos.

5. ORC Chapter 3704.05(G) states, in part, that no person shall violate any rule issued by the Director of Ohio EPA.

6. On June 12, 2008, a CDO inspector visited New Day Farms and inspected the demolition project. When the CDO inspector arrived on site, two barns had already been demolished and removed from the site. Two additional barns were in the process of being demolished. Samples collected from a hard transite material present in each of the barns indicated the presence of asbestos above the regulated level.

7. During the inspection, CDO discovered multiple violations of OAC Chapter 3745-20. Specifically, Respondents' actions at the demolition sites violated:

- OAC Rule 3745-20-02(A) by failing to conduct a thorough inspection for asbestos prior to beginning the demolition.

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

- OAC Rule 3745-20-04(A)(1) by failing to remove all regulated asbestos-containing materials ("ACM") prior to conducting demolition activities.

- OAC Rule 3745-20-03(B)(1) by not having an authorized person trained in the provisions of OAC Rule 3745-20-04(B) on site during demolition.

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- OAC Rule 3745-20-04(C)92) by failing to ensure that all regulated ACM which has been damaged or made friable by demolition are repaired, encapsulated, or removed in accordance with OAC Rule 3745-20-05.

8. After CDO visited the facility, the demolition project was halted and Central Insulation Services was hired to complete the asbestos abatement. The asbestos abatement was completed on August 15, 2008.

9. On July 7, November 21, and December 4, 2008, notice of violation ("NOV") letters were sent to Respondents for violations of OAC Chapter 3745-20.

10. 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. Respondents shall pay the amount of fifty-five thousand two hundred dollars ($55,200) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by official check made payable to "Treasurer, State of Ohio" for forty-four thousand one hundred sixty dollars ($44,160) of the total amount within 30 days of the effective date of these Orders. The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents 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 eleven thousand forty dollars ($11,040) of civil penalty, Respondents shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $11,040 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondents shall tend an official check in the amount of $11,040 due within 30 days of the effective date of these Orders. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents and Fund 5CD0, to the above-stated address.

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
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, OH 43216 - 1049

4. Should Respondents fail to fund the SEP within the required timeframe set forth in Order 2, Respondents shall immediately pay to Ohio EPA $11,040 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate upon Ohio EPA's receipt of the valid official checks 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 Respondents.

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 Respondents pursuant to these Orders shall be addressed to:

Ohio EPA
Central District Office
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Richard Fowler

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, Respondents consent 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 Respondents' liability for the violations specifically cited herein.

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

12/22/09
Date

IT IS SO AGREED:

Henning Construction Company

Signature

Date

Printed or Typed Name

New Day Farms, LLC

[illegible], Pres.

Signature

12/8/09

Date

William R Reha, Pres.

Printed or Typed Name

Reichert Excavating Incorporated

Signature

Date

Printed or Typed Name

IT IS SO AGREED:

Henning Construction Company

Signature _____ Date _____

Printed or Typed Name _____

New Day Farms, LLC

Signature _____ Date _____

Printed or Typed Name _____

Reichert Excavating Incorporated

Daniel J Reichert 12-11-09
Signature Date

Daniel J Reichert
Printed or Typed Name

IT IS SO AGREED:

Henning Construction Company

_____ _____
Signature Date

_____
Printed or Typed Name

New Day Farms, LLC

_____ _____
Signature Date

_____
Printed or Typed Name

Henning Construction Company
~~Reichert Excavating Incorporated~~

_____ 11/24/09
Signature Date

ALAN KOCH CEO
Printed or Typed Name

HENNING CONST CO.

OhioEPA
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

OHIO E.P.A.
JAN 12 2010
ENTERED DIRECTOR'S JOURNAL

JAN 12 2010

CERTIFIED MAIL

Mr. Tony DiGeronimo, President
Precision Environmental Company
5500 Old Brecksville Road
Independence, Ohio 44131

Re: Violation of OAC Rule 3745-20-03 ("Asbestos Emission Control Standard for Notifications)

Dear Mr. DiGeronimo:

My staff has informed me of the violation of the asbestos emission control standards in OAC Chapter 3745-20 that occurred as a result of the demolition of five residential structures previously located at 363 Powers Street, 503 Exchange Street, 364/366 Moon Drive, and 505 Nash Street, Akron, Ohio. These structures, along with several other structures, were to be demolished as part of one project (i.e., installation) and were part of a "facility" as defined in OAC Rule 3745-20-01(B)(18). In or about April 2008, Precision Environmental Company ("Precision") removed asbestos from these structures. The purpose of this letter is to notify you of the violation and to prevent a recurrence.

OAC Rule 3745-20-03 requires, in part, the owner or operator of such a demolition operation to submit to the Director of Ohio EPA a written notice of intention to demolish prior to the start of demolition operation, asbestos stripping or removal work, or any other activity including salvage activities and preparations that break up, dislodge or similarly disturb asbestos material. Further, OAC Rule 3745-20-01(B)(39) defines, in part, the "owner or operator" as any person who owns, leases, operates, controls, or supervises the facility being demolished; or any person who owns, leases, operates, controls or supervises the demolition of the facility, or both. Precision operated, controlled and supervised the demolition operation of the facility during the asbestos removal. Therefore, prior to the start of the demolition, Precision was required to submit a written notice of intention to demolish to our contractual representative in your area, i.e., the Akron Regional Air Quality Management District ("ARAQMD"), by no later than 10 days prior to beginning demolition.

On March 21, 2008, Precision submitted a notification of intention to demolish to the ARAQMD office for other structures that were part of the "facility." However, Precision failed to include the five structures mentioned above, in violation of OAC Rule 3745-20-03 and Ohio Revised Code § 3704.05(G).

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

By: [signature] Date: 1-12-10

For these types of violations, this Agency normally pursues civil penalties. However, based on information provided by the University of Akron (the facility owner), and EA Group (a contractor hired by the University of Akron to oversee the project), this Agency is confident that the regulated asbestos-containing material was properly removed from these structures. Therefore, this Agency is not going to pursue administrative orders and assess civil penalties for this violation. The proposed Director's Final Findings and Orders of December 18, 2008 are hereby withdrawn. However, this Agency is requesting that you submit a commitment to comply with all applicable demolition and renovation project rules in the future. The signed commitment should be submitted to Stephen Feldmann, Ohio EPA Legal Office at Division of Air Pollution Control, Ohio EPA, 50 West Town Street, Suite 700, Columbus, Ohio 43215 by no later than fourteen (14) days of the receipt of this letter.

If you have any questions, please contact Stephen Feldmann at (614) 644-3037.

Sincerely,

Chris Korleski
Director

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Patty Porter, DAPC
Stephen Feldmann, Legal Office
Christopher G. Williams/Frank Markunas, ARAQMD

CK:PP:pp

OhioEPA
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

January 14, 2010

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: air pollution control rule and law violations at ConSun Food Industries, Inc.'s gasoline dispensing facilities (Convenient Food Mart #736 in Elyria and Convenient Food Mart #746 in Lorain)

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 # NA)
Donald L. Vanterpool, Legal Office
Jim Kavalec, DAPC
Ed Fasko/Tim Fischer/Erik Bewley, NEDO
Dennis J. Walter, Con Sun

OHIO E.P.A.

JAN 14 2010

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

ConSun Food Industries, Inc. 123 North Gateway Boulevard Elyria, Ohio 44035	: : :	Director's Final Findings and Orders

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

By Andy Lessiter Date: 1-14-10

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

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

II. PARTIES BOUND

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

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates gasoline dispensing facilities ("GDFs") located at 5375 West Erie Street, Lorain, Lorain County, Ohio (Convenient Food Mart #746) and 8703 West Ridge Road, Elyria, Lorain County, Ohio (Convenient Food Mart #736). In accordance with Ohio Administrative Code ("OAC") Rule 3745-31-03(A)(4)(a), on August 19, 2009, Respondent submitted a request for, and on August 28, 2009 was issued, a permit-by-rule ("PBR") for Convenient Food Mart #736. These GDFs are subject to the requirements of OAC Rule 3745-21-09(R) and (DDD) concerning Stage I and Stage II vapor control systems.

2. 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(R) and (DDD) were adopted by the Director pursuant to ORC Chapter 3704.

3. OAC Rule 3745-21-09(R)(2) (Stage I vapor control systems) states, in part, that the vapor balance system shall be kept in good working order, used at all times during the transfer of gasoline from a delivery vessel to a stationary storage tank located at the GDF and there shall be no leaks in the vapor and liquid lines during the transfer of gasoline.

4. OAC Rule 3745-21-09(DDD)(1)(a) (Stage II vapor control systems) states, in part, that no owner or operator of a GDF may cause, allow, or permit the transfer of gasoline from a stationary storage tank at a GDF into a motor vehicle unless all vapors displaced from the motor vehicle are vented to a vapor control system which is designed or operated to maintain an overall control efficiency of not less than ninety-five percent, by weight, for the VOC in the displaced vapors and which is California Air Resources Board ("CARB") certified.

5. 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.

6. 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).

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 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.

Convenient Food Mart #746

8. From at least May of 2005 until August 18, 2009, Respondent caused, allowed, or permitted the transfer of gasoline from a stationary storage tank at this GDF into motor vehicles without installing, operating and maintaining a Stage II vapor control system, in violation of OAC Rule 3745-21-09(DDD)(1) and ORC § 3704.05(G). By letter dated August 1, 2007, Ohio EPA notified Respondent that a Stage II vapor control system needed to be installed at this GDF.

9. By letter dated August 15, 2007, Respondent notified Ohio EPA that a Stage II vapor control system would be installed by November 1, 2007. A Stage II vapor control system was not installed by November 1, 2007.

10. From July 30, 2008 until August 14, 2008, Respondent failed to keep the Stage I vapor control system in good working order and free from leaks, in violation of OAC Rule 3745-21-09(R)(2) and ORC § 3704.05(G). Specifically, during a July 30, 2008 inspection, Ohio EPA observed that the drop tube was completely eroded to approximately three feet down from the top of the coupling, and gaskets were missing on the premium and regular stationary storage tanks' fill adapter coupling caps and dry break coupling caps. By letter dated August 8, 2008, Ohio EPA notified Respondent of these violations.

11. On August 18, 2009, Respondent stopped dispensing gasoline at this GDF.

Convenient Food Mart #736

12. During each annual Stage II compliance test since April of 2006, Respondent has failed either the static leak test or the A/L ratio test for at least one dispenser, in violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G). Specifically, on April 26, 2006 the A/L ratio test failed for dispensers #1, 2, 3 and 4; on April 2, 2007, the static leak test failed as well as the A/L ratio test for dispenser #4; on March 31, 2008, the A/L ratio test failed for dispenser #4; and on March 31, 2009, the A/L ratio test failed for dispensers #1, 3 and 4. Respondent bagged dispensers #1, 3 and 4 after the failed test on March 31, 2009. During each year Respondent fixed the problem and passed a retest within a couple months. In 2009, Respondent passed an A/L ratio retest on July 1, 2009.

13. 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. Prior to dispensing gasoline at Convenient Food Mart #746, Respondent shall submit a permit-by-rule notification to Ohio EPA for Convenient Food Mart #746, in accordance with OAC Rule 3745-31-03(A)(4)(a).

2. Prior to dispensing gasoline at Convenient Food Mart #746, Respondent shall install a Stage II vapor control system in accordance with OAC Rule 3745-21-09(DDD) and the CARB standard associated with Stage II vapor control system being installed, and shall operate and maintain such system in compliance with OAC Rule 3745-21-09(DDD) thereafter. Within fourteen (14) days of completion of the installation

of the Stage II vapor control system, Respondent shall certify in writing, to Ohio EPA, that the Stage II vapor control system was installed in accordance with OAC Rule 3745-21-09(DDD) and the CARB standard associated with the Stage II vapor control system.

3. 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 Convenient Food Mart #736, checking for leaks, malfunctions or 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 or the local air agency during the middle and at the end of the ozone season. Specifically, the weekly inspection records for the period from March 15 through July 31 shall be submitted by August 14 of that year. The weekly inspection records for August 1 through October 31 shall be submitted by November 14 of that year.

4. 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 Convenient Food Mart #736, 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 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.

5. Respondent shall pay the amount of seventeen thousand two hundred and fifty dollars ($17,250) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by official checks made payable to "Treasurer, State of Ohio" for thirteen thousand eight hundred dollars ($13,800) of the total amount, which shall be paid in installments per the following schedule:

a. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand six hundred dollars ($1,600);

b. Within one hundred and twenty (120) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of four thousand dollars ($4,000);

c. Within two hundred and ten (210) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of four thousand dollars ($4,000); and

d. Within three hundred (300) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of four thousand two hundred dollars ($4,200).

DJH

The official checks 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

6. In lieu of paying the remaining three thousand four hundred and fifty dollars ($3,450) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $3,450 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 $3,450. 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.

7. 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

8. Should Respondent fail to fund the SEP within the required time frame set forth in Order 6, Respondent shall immediately pay to Ohio EPA $3,450 of the civil penalty in accordance with the procedures in Order 5.

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: Thomas 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 full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

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

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date 1/12/10

IT IS SO AGREED:

ConSun Food Industries, Inc.

Signature

Date JAN 5, 2010

DENNIS J WALTER
Printed or Typed Name

PRESIDENT
Title

OhioEPA
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

JAN 13 2010

CERTIFIED MAIL

Mr. Brent Saionz, d.b.a. Simon Excavating
Owner
670 West County Road 73
Fremont, Ohio 43420

Re: Unilateral Director's Final Findings and Orders for the violations of OAC Chapter 3745-19 for open burnings at 670 West County Road 73, Ballville Township, Sandusky County, Ohio

Dear Mr. Saionz:

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

These Orders are being issued pursuant to OAC Rule 3745-19-06(A) which states that the Director of Ohio EPA may assess a violator not more than one thousand dollars per day for each separate violation of the rules in this Chapter for open burning on commercial property. A copy of this rule is attached.

Should you fail to comply with these Orders, the Director of Ohio EPA may refer this matter to the Ohio Attorney General's Office where, under the authority of Ohio Revised Code § 3704.06, the Director may request that the Attorney General pursue litigation and seek civil penalties of up to $25,000 per day of violation.

You are hereby informed that the action of the Director is final and may be appealed to the Environmental Review Appeal Commission ("Commission") pursuant to Ohio Revised Code § 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of $70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director

within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
South Fourth Street, Room 222
Columbus, OH 43215

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 stamped on the first page of the Orders.

Sincerely,

James A. Orlemann

James A. Orlemann, P.E.
Assistant Chief
SIP Development and Enforcement

Enclosures

JO/TT/tt

xc: Jim Orlemann, DAPC/CO
Tom Kalman, DAPC/CO
Thomas Cikotte/Tom Sattler/Mark Budge, DAPC/NWDO
Tan Tran, DAPC/CO
Marcus Glasgow, Legal Office
Brenda Case, Fiscal
Priscilla Roberson, DAPC/CO
Carol Hester, PIC

3745-19-06 **Open burning unilateral order.**

(A) The director may assess and collect administrative penalties from any person who violates any of the rules in this chapter. Through unilateral orders, the director may assess a violator not more than two hundred-fifty dollars per day for each separate violation of the rules in this chapter for open burning on residential property and not more than one thousand dollars per day for each separate violation of the rules in this chapter for open burning on industrial, commercial, institutional, or municipal property. Commercial property includes construction sites, including, but not limited to, the construction of residential homes, if the sites are not properly permitted under section 3704.11(C) of the Revised Code. A separate violation is assessed for each day (24-hour period) the violation occurs.

(B) The director's authority under paragraph (A) of this rule is in addition to, and not in limitation of, the director's authority under section 3704.06 of the Revised Code to request the attorney general to initiate legal action to seek penalties of not more than twenty-five thousand dollars for each day of each violation for the violation of rules in this chapter.

Effective: 07/07/2006

R.C. 119.032 review dates: 07/07/2011

CERTIFIED ELECTRONICALLY
Certification

06/27/2006
Date

Promulgated Under: 119.03
Statutory Authority: R.C. Section 3704.03(E)
Rule Amplifies: R.C. Section 3704.03(A), 3704.03(E)

OHIO E.P.A.
JAN 13 2010
ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Brent Saionz, d.b.a. Simon Excavating	:	Director's Final Findings
670 West County Road 73	:	and Orders
Fremont, Ohio 43420	:	

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Brent Saionz d.b.a. Simon Excavating ("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 heirs and successors in interest liable under Ohio law. No change in ownership of Respondent's 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 rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent, with business address at 670 West County Road 73, Fremont, Ohio, was hired by Redline Racing, LLC to perform a land-clearing project at its commercial property that is located at 708 Bartson Road, Ballville Township, Sandusky County, Ohio. This commercial property is located in a "restricted area," as defined in Ohio Administrative Code ("OAC") Rule 3745-19-01(J) concerning open burning.

2. OAC Rule 3745-19-03(A) prohibits any person or property owner from open burning in a restricted area except as provided in OAC Rule 3745-19-03(B) and (D) and in ORC § 3704.11. These exceptions to the open burning prohibition do not include the open burning of waste materials at a commercial property in a restricted area.

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

By: [signature] Date: 1-13-10

3. On August 4, 2009, Ohio EPA, Northwest District Office ("NWDO") received a complaint concerning open burning being conducted on the above-referenced commercial property.

4. On August 6, 2009, NWDO conducted an investigation at the above-referenced property as a response to the August 4, 2009 complaint. Upon entering the property in the dirt track area, NWDO documented that evidence of open burning of waste materials was being conducted. Upon arrival, NWDO observed a 20 feet X 20 feet pile of ash, stumps, brush, and tire belts (from about 15 to 18 tires) still smoldering. Since open burning of such waste was conducted in a restricted area, Respondent was in violation of OAC Rule 3745-19-03(A).

5. On September 9, 2009, NWDO returned to conduct an investigation at an another area of the above-referenced property known as the "motorcross track". At this area, NWDO documented four (4) burn sites (identified by NWDO as burn sites #1 through #4). Burn site #1 is to the south of the dirt track and contained mostly plastic and glass bottles, aluminum beverage cans and two tires and some brush. Burn site #2 is located along the southeast side of the dirt track and is an old site where open burning occurred but now only a black spot on the ground with some ash remains. Burn site #3 is located along the western part of the dirt track, closer to the paved track, which is a larger pile of mostly brush, a few pieces of metal fencing and several pieces of old tires (some partially burned) and several steel radial belts (total approximately 12-15 tires). Burn site #4 is located to the southeast about 150 feet back from the track and had stumps, brush, two steel radial tires and some debris. Based on its investigation, NWDO concluded that the open burnings at site #1 through #4 had been conducted by Respondent not too long prior to the September 9, 2009 inspection. Since there was evidence that open burnings of waste were conducted in a restricted area associated with the four above-referenced areas, Respondent was in violation of OAC Rule 3745-19-03(A).

6. On September 16, 2009, NWDO sent Respondent a Notice of Violation ("NOV") citing Respondent for the violations that were observed during the August 6, 2009 and September 9, 2009 investigations. In this NOV, NWDO requested that Respondent cease open burning.

7. All of the above-referenced violations also constitute violations of ORC § 3704.05(G), which prohibits any person from violating any rule adopted by the Director of Ohio EPA under this chapter. OAC Rule 3745-19-03 was adopted by the Director of Ohio EPA under this chapter.

8. OAC Rule 3745-19-06(A) states that the Director of Ohio EPA may access a violator not more than one thousand dollars ($1,000) per day for each violation of the rules of this Chapter for open burning on commercial property. The open burning violations on August 6, 2009 and September 9, 2009 occurred on commercial property and, therefore, a $2,000 penalty is being assessed.

9. Should Respondent fail to comply with these Orders, the Director of Ohio EPA may refer this matter to the Ohio Attorney General's Office where, under the authority of ORC § 3704.06, the Director may request that the Attorney General pursue litigation and seek civil penalties of up to $25,000 per day of violation.

10. 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. Upon the effective date of these Orders, Respondent shall cease all open burning in the State of Ohio that is in violation of OAC Chapter 3745-19, and shall maintain compliance thereafter.

2. Respondent shall pay the amount of two thousand dollars ($2,000) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC § 3704.06. 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 two thousand dollars ($2,000). 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 the above 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, Ohio 43216-1049

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."

The certification shall be submitted by Respondent to Ohio EPA and shall be signed by Respondent.

VII. 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's operations.

VIII. NOTICE

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

Ohio EPA, Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402-9398
Attention: Thomas C. Cikotte

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Thomas Kalman, Manager, Enforcement Section

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

IX. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative,

legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3704 or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

X. EFFECTIVE DATE

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date 1/12/10

OhioEPA
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

JAN 1 2 2010

CERTIFIED MAIL

Mr. Ron Smith
U496 Road 8
Liberty Center, Ohio 43532

Re: Unilateral Director's Final Findings and Orders for the violation on November 5, 2008, of OAC Chapter 3745-19 for open burning at 16899 Kellogg Road, Washington Township, Wood County, Ohio

Dear Mr. Smith:

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

These Orders are being issued pursuant to OAC Rule 3745-19-06(A) which states that the Director of Ohio EPA may assess a violator not more than two hundred and fifty dollars per day for each separate violation of the rules in this Chapter for open burning on residential property. A copy of this rule is attached.

Should you fail to comply with these Orders, the Director of Ohio EPA may refer this matter to the Ohio Attorney General's Office where, under the authority of Ohio Revised Code § 3704.06, the Director may request that the Attorney General pursue litigation and seek civil penalties of up to $25,000 per day of violation.

You are hereby informed that the action of the Director is final and may be appealed to the Environmental Review Appeal Commission ("Commission") pursuant to Ohio Revised Code § 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of $70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director

within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
South Fourth Street, Room 222
Columbus, OH 43215

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 stamped on the first page of the Orders.

Sincerely,

James A. Orlemann

James A. Orlemann, P.E.
Assistant Chief
SIP Development and Enforcement

Enclosures

JO/FU/fu

xc: Jim Orlemann, DAPC/CO
Tom Kalman, DAPC/CO
Thomas Cikotte/Tom Sattler/Joe Grob, DAPC/NWDO
Felix Udeani, DAPC/CO
Stephen Feldmann, Legal Office
Brenda Case, Fiscal
Priscilla Roberson, DAPC/CO
Carol Hester, PIC

3745-19-06 **Open burning unilateral order.**

(A) The director may assess and collect administrative penalties from any person who violates any of the rules in this chapter. Through unilateral orders, the director may assess a violator not more than two hundred-fifty dollars per day for each separate violation of the rules in this chapter for open burning on residential property and not more than one thousand dollars per day for each separate violation of the rules in this chapter for open burning on industrial, commercial, institutional, or municipal property. Commercial property includes construction sites, including, but not limited to, the construction of residential homes, if the sites are not properly permitted under section 3704.11(C) of the Revised Code. A separate violation is assessed for each day (24-hour period) the violation occurs.

(B) The director's authority under paragraph (A) of this rule is in addition to, and not in limitation of, the director's authority under section 3704.06 of the Revised Code to request the attorney general to initiate legal action to seek penalties of not more than twenty-five thousand dollars for each day of each violation for the violation of rules in this chapter.

Effective: 07/07/2006

R.C. 119.032 review dates: 07/07/2011

CERTIFIED ELECTRONICALLY
Certification

06/27/2006
Date

Promulgated Under: 119.03
Statutory Authority: R.C. Section 3704.03(E)
Rule Amplifies: R.C. Section 3704.03(A), 3704.03(E)

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

JAN 12 2010

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Ron Smith : **Director's Final Findings**
U496 Road 8 : **and Orders**
Liberty Center, Ohio 43532 :

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

By: [signature] Date: 1-12-10

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Ron Smith ("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 heirs and successors in interest liable under Ohio law. No change in ownership of the property (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 the residential property located at 16899 Kellogg Road, Washington Township, Wood County, Ohio.

2. OAC Rule 3745-19-01(J)(1) of the open burning regulations defines a "restricted area" as (a) within the boundaries of a municipal corporation, (b) a zone extending one thousand feet beyond the boundaries of any such municipal corporation having a population of one thousand to ten thousand persons, and (c) a zone extending one mile beyond the boundaries of any such municipal corporation having a population of ten thousand persons or more according to the latest federal census.

3. OAC Rule 3745-19-01(K) defines "unrestricted area" as all areas outside the boundaries of a "restricted area" as defined in Finding #2 above.

4. From the 2008 census, the City of Tontogany, in Wood County, the nearest municipal corporation to Respondent's property, has a population of less than one thousand persons. Respondent's property at 16899 Kellogg Road, Washington Township, Wood County is outside of a municipal corporation with a population of less than one thousand persons. Therefore, Respondent's property, at the aforementioned address, is in an unrestricted area as defined in OAC Rule 3745-19-01(K).

5. OAC Rule 3745-19-04(A), in part, states that no person or property owner shall cause or allow open burning in an unrestricted area except as provided therein. No exceptions are provided for open burning rubber and tires.

6. 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. The rules in OAC Chapter 3745-19 were adopted by the Director under OAC Chapter 3704.

7. On October 22, 2009, Respondent conducted open burning of a pile of trash (15 feet x 25 feet x 7 feet in size) consisting of multiple mattresses, a bathroom sink, two rolls of fiber glass insulation, metal fencing, brush, wood, several metal bars with ½ inch thick rubberized coating on them and 11 tires at 16899 Kellogg Road, Washington Township, Wood County, in violation of OAC Rule 3745-19-04(A) and ORC § 3704.05(G).

8. On October 29, 2009, Ohio EPA issued a Notice of Violation ("NOV") letter to Respondent for illegally open burning in a unrestricted area in violation of Ohio's open burning rules.

9. OAC Rule 3745-19-06(A) states that the Director of Ohio EPA may assess a violator not more than two hundred and fifty dollars ($250) per day for each violation of the rules of this Chapter for open burning on a residential property. The open burning violation on October 22, 2009, occurred at 16899 Kellogg Road, a residential property owned by Respondent and, therefore, a $250 penalty is being assessed.

10. Should Respondent fail to comply with these Orders, the Director of Ohio EPA may refer this matter to the Ohio Attorney General's Office where, under the authority of ORC § 3704.06, the Director may request that the Attorney General pursue litigation and seek civil penalties of up to $25,000 per day of violation.

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

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall immediately cease all open burning in violation of OAC Rule 3745-19-04 and shall maintain compliance thereafter.

2. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of two hundred and fifty dollars ($250) in administrative penalties pursuant to OAC Rule 3745-19-06. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for $250. The official check shall be submitted to Brenda Case, or her successor, with a letter identifying the Respondent, to:

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

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

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

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 signed by Respondent and submitted to Ohio EPA.

VII. 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.

VIII. NOTICE

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

Ohio EPA, NWDO
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attention: Thomas Cikotte

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Thomas Kalman, Manager, Enforcement Section

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

IX. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3704 or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

X. EFFECTIVE DATE

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date 1/11/10

OhioEPA
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

JAN 1 2 2010

CERTIFIED MAIL

Mr. Gordon Barr
President
NewKor, Inc.
10410 Berea Road
Cleveland, Ohio 44102

Re: Director's Final Findings and Orders for violations of OAC Chapters 3745-15, 77, and 78

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

Dear Mr. Barr:

My staff has informed me of the violations of the Ohio Administrative Code ("OAC") that continue to occur at your facility located at 10410 Berea Road in Cleveland.

Specifically, the facility has been a major source of volatile organic compounds and hazardous air pollutants prior to and at all times since you began operation of the facility in 1999. As a major source, NewKor failed to submit a timely Title V permit application and pay the associated Title V permit fees, in violation of OAC rules 3745-77-03(A), 3745-77-02(A), and 3745-78-02(A) and Ohio Revised Code Sections 3704.05 (J) and (K). Additionally, NewKor has been emitting noxious odors that have been creating a public nuisance, in violation of OAC rule 3745-15-07.

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 have occurred and continue occur. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Because this letter and the attached documents summarize a proposed settlement, I consider them inadmissible for any purpose in any enforcement action the State may take if a settlement cannot be reached.

Please review the attached documents carefully. If you have any questions concerning the proposed Findings and Orders, or if you would like to arrange a meeting to discuss a mutually acceptable settlement, please contact Steve Feldmann, 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.

I hope that NewKor 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
John Paulian, DAPC
Eric Yates, DAPC
Steve Feldmann, Legal Office
Valerie Shaffer, CDAQ
George Baker, CDAQ
Laurie Stevenson, OCCAP

Enclosures

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

NewKor, Inc. 10410 Berea Road Cleveland, Ohio 44102	: : :	**Director's Final Findings and Orders**

I. JURISDICTION

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

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and heirs and successors in interest liable under Ohio law.

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 manufacturing facility ("facility") located at 10410 Berea Road in Cleveland, which is identified by Ohio EPA facility identification number 1318005362.

2. At the facility, Respondent operates numerous pieces of equipment for the production of paper roller tubes used in military launching tubes, paint roller tubes, tape cores, and paper mailing machines. Among the equipment are various emissions units that emit methanol, phenol, and formaldehyde. These emissions units are each an "air contaminant source" as defined in OAC Rule 3745-15-01(C) and (X), and emit volatile organic compounds ("VOCs") as defined in OAC Rule 3745-21-01(B)(14), including methanol, phenol, and formaldehyde, which are "hazardous air pollutants" as defined in OAC Rule 3745-77-01(V).

3. Respondent was issued a PTO for emissions unit P001 (bake oven) on October 10, 1986. The PTO expired on October 10, 1989. Respondent failed to submit an acceptable renewal application, in violation of OAC rule 3745-35-02.

4. Respondent was issued permits to operate ("PTOs") for emissions units P003 (bake oven) and P004 (dip tanks) on December 22, 1989. The PTOs expired on December 22, 1992; and Respondent failed to submit acceptable renewal applications, in violation of OAC rule 3745-35-02.

5. Ohio EPA and the Cleveland Division of Air Quality ("CDAQ") have determined that Respondent's facility is a "major source" of VOCs and hazardous air pollutants, on both an actual and potential-to-emit basis, as defined in OAC rule 3745-77-01(W). Based on records reviewed by CDAQ, the facility has been a major source of VOCs and hazardous air pollutants prior to and at all times since Respondent took ownership of the facility in 1999. As a major source, Respondent is subject to the Title V permitting requirements (OAC Chapter 3745-77) and has failed to submit a timely Title V permit application and pay the associated Title V permit fees, in violation of OAC rules 3745-77-03(A), 3745-77-02(A), and 3745-78-02(A) and ORC Sections 3704.05 (J) and (K).

6. OAC rule 3745-15-07 states that it is unlawful for any person to cause, permit, or maintain a public nuisance.

7. Since July 29, 2008, CDAQ has received and responded to at least 10 odor complaints from residents in the vicinity of Respondent's property. During the complaint investigations, CDAQ determined that the source of the odors is Respondent's facility. Because of the high level of uncontrolled emissions from Respondent's facility and the number of odor complaints, the odors are creating a nuisance, in violation of OAC rule 3745-15-07.

8. 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 ninety (90) days of the effective date of these Orders, Respondent shall submit a Title V permit application covering all emissions units at the facility. (Please be advised that since June 30, 2008, major sources must submit permit applications online using Air Services. Hard copy forms are no longer acceptable. Air Services is part of Ohio EPA's new eBusiness Center, which is available at http://ebiz.epa.ohio.gov.)

2. Within one hundred and twenty (120) days of the effective date of these Orders, Respondent shall submit the Title V fee emission reports, using Air Services, for calendar years 1999 through 2008. Please contact Elisa Thomas at (614) 644-3621 for assistance.

3. Within one hundred and fifty (150) days of the effective date of these Orders, Respondent shall complete a detailed engineering study to determine the technical and economic feasibility of reducing the VOC emissions that cause odors from the sources at the facility. The engineering study shall be completed in accordance with following instructions:

a. Prepare a comprehensive and accurate emission inventory for all the sources of VOCs at the facility. The emission inventory shall include the following information for each source of VOC emissions:

i. a description of the source of emissions;

ii. the emissions unit from which the emissions emanate (e.g., P001);

iii. whether the emissions are stack or fugitive;

iv. the maximum hourly uncontrolled and controlled VOC emission rates at the maximum production capacity, and the duration of those emissions over a 24-hour production period;

v. the basis for the uncontrolled and controlled VOC emission rates (e.g., material balance calculations, emission tests, or emission factors);

vi. the calculations for the uncontrolled and controlled VOC emission rates;

vii. the type of control equipment or control measure employed, and the name of each control equipment manufacturer;

viii. the control efficiency for each piece of control equipment and each control measure employed;

ix. for fugitive emissions, the release height of the emissions (in feet above ground level);

x. for stack emissions, the height of the stack (in feet above ground

level), the diameter of the stack at the top of the stack (in feet), the temperature of the exhaust gases (in degrees F), and the flow rate of the exhaust gases (in acfm and scfm);

xi. the dimensions of all nearby buildings (height, width, and length, in feet [see Ohio EPA, DAPC, Engineering Guide 69]); and

xii. the UTM coordinates for the point(s) at which the emissions are vented into the ambient air.

b. Identify and describe all the technically feasible VOC control measures (including, if applicable, conversion to low VOC-content coatings) for each source of VOC emissions (stack and fugitive) identified pursuant to Order 3a.

c. For each of the technically feasible VOC control measures identified pursuant to Order 3b, determine and report the following:

i. the total installed capital cost;
ii. the annual operating and maintenance cost;
iii. the total annual cost, including the annualized capital cost;
iv. the reductions in VOC emissions that would occur, in tons; and
v. the cost-effectiveness, in dollars per ton of VOC removed.

Respondent may use the guidance in Ohio EPA, Division of Air Pollution Control's Engineering Guide #46 in calculating the cost-effectiveness for each technically feasible VOC control measure for each source of VOC emissions.

d. For each technically feasible VOC control measure identified pursuant to Order 3b, estimate the amount of time that would be required to expeditiously implement the control measure and provide an explanation of the basis for the time estimate.

4. Respondent shall pay the amount of one hundred thirty-five thousand dollars ($135,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by official check made payable to "Treasurer, State of Ohio" for one hundred and eight thousand dollars ($108,000) of the total amount within 30 days of the effective date of these Orders. The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents 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 twenty-seven thousand dollars ($27,000) of civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $27,000 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tend an official check in the amount of $27,000 due within 30 days of the effective date of these Orders. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

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

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

7. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 2, Respondent shall immediately pay to Ohio EPA $27,000 of the civil penalty in accordance with the procedures in Order 4.

8. A copy of the engineering study shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement Section, or his successor, at the following address:

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

An additional copy of the engineering study shall be sent to the Cleveland Division of Air Quality at the following address:

Quality at the following address:

Cleveland Department of Public Health
Division of Air Quality
75 Erieview Plaza, 2nd Floor
Cleveland, Ohio 44114
Attn: George P. Baker

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 purposes of these Orders, a responsible official is the person authorized to sign in OAC Rule 3745-35-02(B)(1) for a corporation or a duly authorized representative as that term is defined in the above-referenced rule.

VII. 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.

VIII. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3704 or any other applicable law in the future. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

IX. EFFECTIVE DATE

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

ORDERED:

Ohio Environmental Protection Agency

_____ _____

Chris Korleski Date
Director

AGREED:

NewKor, Inc.

_____ _____

Signature Date

_____

Printed or Typed Name

Air Civil Penalty Worksheet

NewKor, Inc.

A. Benefit Component: (enter from attached computer calculation)		NA	Economic benefit is not applicable.
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:	$110,000		Beginning in 1999, when Mr. Gordon Barr took ownership of NewKor, Respondent was a major source of volatile organic compounds and should have applied for and received a Title V permit. To date, Respondent has not applied for a Title V permit. (120 months)
2. Importance to regulatory scheme:	$15,000		Operating a source without applying for and receiving a Title V permit, in violation of OAC Rule 3745-77-03(a).
3. Size of violator:	$10,000		Net worth is defined as 20% of annual sales. Per Reference USA, respondents annual sales are $23,000,000. Respondent's estimated net worth is $4,600,000. Per the USEPA civil penalty policy, the size of violator penalty is $10,000.
Total Gravity Component:		$135,000	
Preliminary Deterrence Amount: (sum of benefit and gravity components)			
C. Flexibility-Adjustment Factor:			
1. Degree of willfulness or negligence: (total gravity component times an augmentation percentage)			
2. Degree of cooperation: (total gravity component times any mitigation percentage)			
3. History of noncompliance: (total gravity component times any augmentation percentage)			
4. Ability to pay: (any mitigation amount)			
5. Other unique factors: (total gravity component times any mitigation or augmentation percentage)			
All augmentation (+) and mitigation (-) amounts added: (if negative, cannot exceed total gravity component)		$0	
D. Administrative component			
1. Installation of source without obtaining permit-to-install			
2. Operation of source without obtaining permit-to-operate or Title V permit			
Total Administrative Component		$0	

E. Initial Minimum Settlement Amount: [preliminary deterrence amount + or - sum of flexibility adjustment factors plus administrative component (A+B+C+D)]		$135,000	

OhioEPA
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

OHIO E.P.A.
JAN 12 2010
ENTERED DIRECTOR'S JOURNAL

JAN 1 2 2010

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

By: _____ Date: 1-12-10

CERTIFIED MAIL

Thomas Jesionowski
Vice President
Pexco Packaging Corporation
795 Berdan Avenue
Toledo, Ohio 43610

Re: Violation of OAC Chapters 3745-31 (Permit to Install and Operate) and 3745-21 (Volatile Organic Compounds)

Dear Mr. Jesionowski:

Ohio EPA, Division of Air Pollution Control ("DAPC") and the City of Toledo, Division of Environmental Services ("TDOES") staff have informed me of the violations of Ohio Administrative Code ("OAC") Chapters 3745-31 (Permit to Install and Operate) and 3745-21 (Volatile Organic Compounds) and Ohio Revised Code ("ORC") § 3704.05(C), associated with the operation of your facility located at 795 Berdan Avenue in Toledo.

Specifically, Pexco Packaging has failed to maintain the records required by the permit to install and operate ("PTIO") issued on January 13, 2009. Without these records, it is impossible for TDOES staff to determine compliance with the applicable emissions and operating limits in the PTIO. TDOES notified Pexco Packaging of the record keeping deficiencies in notice of violation ("NOV") letters dated July 20 and November 2, 2009.

Additionally, Pexco Packaging has failed to conduct compliance testing of emissions units K001, K002, and K003 as required by the PTIO issued on January 13, 2009. Per the PTIO, compliance testing was required to have been conducted within 90 days of the issuance of the PTIO (i.e, by April 13, 2009). To date, Pexco Packaging has not completed the required compliance testing. TDOES notified Pexco Packing of the missed compliance testing deadline in NOV letters dated April 28 and November 2, 2009.

Required Actions

1. Within fourteen (14) days of receipt of this letter, please submit all records, identified in the July 20 and November 2, 2009 NOV letters, to TDOES.

2. Within thirty (30) days of the receipt of this letter, please submit an intent to test notification form to TDOES; and, within sixty (60) days of receipt of this

letter, conduct compliance testing of emissions units K001, K002, and K003 as required by the terms and conditions of the PTIO.

Should you fail to complete the actions above, the Ohio EPA Division of Air Pollution Control may begin escalated enforcement proceedings which could include the seeking of civil penalties in addition to compliance with the terms and conditions of the PTIO.

If you have any questions concerning this matter, please contact either Matt Stanfield, TDOES, at (419) 936-3938, Don Vanterpool, Ohio EPA Staff Attorney, at (614) 644-3037, or Eric Yates, DAPC-Central Office, at (614) 644-3753.

Sincerely,

Chris Korleski
Director

xc: Jim Orlemann, DAPC
John Paulian, DAPC
Don Vanterpool, Legal Office
Matt Stanfield, TDOES
Karen Granata, TDOES

CK/EY/ey