AGENDA FOR THE DECEMBER 31, 2009 EC MEETING

CASES TO BE CLOSED:

Fairport Yachts, Ltd./Tartan Yachts/ C&C Yachts/Novis Marine (Composites), Ltd./Grand River Investments	#2638	NEDO	AG Referral	Tom/Marc
Cast-Fab Technologies, Inc.	#2687	HAMCO	Final F&Os	Tom/Bryan
L&C, Inc., Lucille Hall/Unique Finishers, Inc., Kenneth and Belinda Hall/D & S Coating, Sandy and Dan Hall/Binks Coating, Lynn Binkly	#2691	RAPCA	AG Referral	Tom/Bryan
Ameriseal & Restoration, LLC, d.b.a. Ameriseal	#2693	Akron	Final F&Os	Tom/Don
A. David Sugar, Jr./Honey Creek Contracting Co., Inc./Excavation Technologies, Inc./Dave Sugar Excavating, LLC/Howland Company, LLC	#2708	SEDO	AG Referral	Tom/Don
Quality Ready Mix, Inc.	#2713	NWDO	Final F&Os	Tom/Bryan
Hosea Project Movers, LLC	#2725	HAMCO	Final F&Os	Tom/Steve
Randy Wise	#2808	NWDO	Unil. F&Os	Tom/Steve
Republic Engineered Products, Inc. **(HPV)**	#2816	NEDO	Final F&Os	Tom/Don
EI Ceramics, LLC.	#2825	HAMCO	Final F&Os	Tom/Steve
Blackhawk Automotive Plastics, Inc.	#2845	HAMCO	No Further Action	Tom/Don
Robert Schiekh	#2876	TDES	Unil. F&Os	John/Marc
Cemex, Inc.	#2882	RAPCA	AG Referral	Tom/Bryan

PENDING CASES:

City of Youngstown Wastewater Treatment Plant	#2879	112r	Prop. F&Os	Sherri/Marc

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) **Don is scheduled to provide food for today's meeting at 9:30 a.m. in DAPC Rm C.**

(5) The next and first meeting of the new year is scheduled for Thursday, January 14, 2010 at 3:00 p.m. in DAPC Rm C. Bryan is scheduled for food. (Future food schedule: Marc for January 28; Tom for February 11.)

ENFORCEMENT COMMITTEE MEETING MINUTES

(December 31, 2009)

		Dates:	
Case Number:	2638	**EAR**:	07/02/07
Entity:	Fairport Yachts, Ltd., Tartan Yachts, C&C Yachts, Novis Marine (Composites), Ltd. And Grand River Investments	**DWL**:	09/24/09
Field Office:	NEDO	**F&Os**:	
Contact:	Patty Porter/Tom Kalman	**Referral**:	12/28/09
Attorney:	Marcus Glasgow	**Dismissal**:	N/A

Background: On September 24, 2009, a Director's request for information letter was sent to Fairport Yachts, Ltd. ("Fairport"), of 1920 Fairport-Nursery Road in Painesville, Ohio, under the authority of OAC Rule 3745-15-03(A) and ORC § 3704.03(I). The letter requested the submission of the following information for the boat manufacturing facility by October 15, 2009:

(1) facility-wide emission calculations for the actual and PTE of volatile organic compounds, single and combined HAPs, in terms of rolling, 12-month averages, for each of the years 1998 to June 2009;

(2) short-term emission rates expressed in pound per hour and per day of individual and combined HAPs and VOC and the basis for the use of any emission factors;

(3) identification of any installation of a new source or modification of an existing source and the change in emissions rates due to the installation or modification;

(4) a detailed description of the 70,000 square foot expansion of the facility and its effect on the facility's PTE;

(5) emission calculations for the use of all epoxies, catalyzers, and/or any additives used in the process and justification for such calculations;

(6) a detailed description of any inherent physical limitations used to limit the PTE for the facility for any particular year and the effect on the PTE;

(7) records to demonstrate that any annual and/or short-term limitations on the facility's PTE were not exceeded and that the major source applicability thresholds, on a rolling, 12-month average basis, were not exceeded;

(8) an explanation of the liner process and its emissions and specific information on the closed mold infusion molding process;

(9) information on any modifications to the lacquer operations;

(10) the emission factors that were used to determine compliance with the organic compound emission limitations;

(11) a description of usage of chopper guns and resins and additives employed and detailed emission calculations on each gun;

(12) the annual amount, type and VOC and HAP content of the resins, catalysts and solvents used or purchased since 1998 to June 2009;

(13) the detailed calculations used to derive the annual HAP and OC emission estimates per a June 11, 2008 letter; and

(14) the date the resin transfer mold was installed and the basis for any emission estimates.

For purposes of the MACT and Title V, the letter requests Fairport to demonstrate that the facility is not a major source using one of two methods provided in the MACT.

Fairport received the letter by certified mail on September 29, 2009. It did not respond to the Director's letter and submitted no reply after repeated phone calls to the company. The failure to timely respond to the request is a violation of ORC §§ 3704.05(D) and (G).

Fairport is a subsidiary of Novis Marine, LTD, which was formed in 2005 when Fairport Yachts and Novis Composites were consolidated. At the facility, Fairport employs four air contaminant sources, i.e., fiberglass lamination with polyester resin (gel coat, spray-up and resin hand layup) (emissions unit P001); striping of fiberglass sailboat hulls (emissions unit R001); woodworking sailboat cabinet components (emissions units P002); and varnishing woodwork and cabinets (emissions unit R002).

The above information is needed in order to determine all requirements applicable to the facility and the compliance status of the facility with those requirements. Ohio EPA believes the facility violated record-keeping, monitoring, and reporting requirements, exceeded organic compound emission limits, and violated permitting requirements for installing and operating emissions units without permits to install and operate. Also, this

facility appears to be a minor source, but information on hazardous air pollutants ("HAPs") has not been submitted by Fairport despite numerous requests by NEDO in NOVs dated June 19, 2003, November 18, 2004, and April 5, 2005, and two additional requests on May 31, 2005 and June 14, 2005. Specifically, the facility has not submitted a facility-wide potential to emit ("PTE") analysis for individual and combined HAPs to confirm area source status for the Maximum Achievable Control Technology ("MACT") requirements for boat manufacturing (40 CFR, Subpart VVVV—National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing).

Also, it is unclear what firms are operating at the facility at this time and prior time. It may be that more than one company is operating at the facility. For example, one call to the company resulted in someone answering the phone as "C&C Yachts."

On November 6, 2009, Ohio EPA's attorney, Marcus Glasgow, contacted Bill Ross, the owner of Fairport. Later that day, Mr. Ross sent an e-mail stating that Fairport ceased operations in June 2004. The e-mail also stated that Novis Marine, Ltd. had purchased the assets through a third party sale and that Novis had operated the facility at the same location in Fairport Harbor until last year when it too ceased operations. He further said that there was a potential for a new company to again start up operations at the facility but that no transactions had occurred to date.

Information contained in a website article regarding Tartan Yachts' history (www.goodoldboat.com), dated November/December 2003, indicates that in 2003, Fairport acquired a company named High Tech Composites, an Ohio-based company that manufactured carbon masts, and renamed the company Novis Marine, Ltd.

Fairport and Novis Marine, Ltd. both manufactured the same lines of luxury sailboats, called Tartan Yachts and C&C Yachts, at the facility. Based on Tartan Yachts and C&C Yacht's websites, both of their boats are still being built and sold. Both websites list the Fairport Harbor address and state that the warranties for yachts delivered after November 1, 2003 are warranted by Tartan Yachts or C&C Yachts, which are divisions of Fairport (with the same address).

A Star Beacon news article, dated September 24, 2007, states that Novis Marine, Ltd. recently began construction of high-end sailboats at its manufacturing facility located at 341 Harbor Street, Conneaut, Ohio. This location appears to have been the location where Novis Marine, Ltd. produced its carbon filled masts for Tartan Yachts and C&C Yachts' sailboats. This suggests that the Fairport's facility may have changed locations or expanded the manufacturing of the yachts to a new location.

A Boating Industry article dated January 25, 2008, indicates that Novis Marine, Ltd. entered into an agreement for the sale of its assets to Grand River Investments, a private equity group based in Cleveland. The article also stated that Novis Marine, Ltd. will offer a 60-foot model and possibly a 57-foot model of its Tartan line of cruising boats and will continue to upgrade the C&C line. It further says that Tim Jackett, Novis Marine, Ltd.'s chief operating officer and chief designer, will continue with the company in his current role and that Bill Ross (the owner of Fairport and possibly the CEO of Novis Marine, Ltd.) will remain with the company during the transition. Tim Jackett also was employed by Fairport.

In a February 13, 2009, news release, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) announced that it had proposed a $130,200 fine against Novis Marine, Ltd. for alleged willful, serious and repeat violations of federal workplace safety standards. OSHA's investigation opened in August 2008. The location of the investigation is not indicated.

Fairport, Novis Marine, Ltd. and Grand River Investments are listed as active businesses with the Ohio Secretary of State.

In light of the lack of a response to the Director's letter, the Agency's inability to determine rule applicability and compliance status due to lack of information provided by Fairport, and the confusion over who actually owns and operates the facility, it was decided to recommend to the Director that the case be referred to the Attorney General's Office (AGO) for enforcement action.

Action: In a letter dated December 28, 2009, the Director referred this case to the AGO for enforcement action. In the referral, it is requested that the AGO pursue obtaining the information itemized in the September 24, 2009 letter from the Director, whether directly from the parties or by obtaining a preliminary injunction through the court. A civil penalty for this case has not been calculated due to the lack of pertinent information to establish other significant violations that may have occurred. Once the information is obtained, Ohio EPA will determine what injunctive relief is needed and what additional violations occurred, and will compute a civil penalty for the AGO's use. The AGO can then pursue settlement of the violations through a consent order or through the court if necessary.

Case Closed

		Dates:	
Case Number:	2687	**EAR**:	12/17/07
Entity:	Cast-Fab Technologies, Inc.	**DWL**:	N/A
Field Office:	HAMCO	**F&Os**:	12/23/09
Contact:	Tan Tran/Tom Kalman	**Referral**:	N/A
Attorney:	Bryan Zima	**Dismissal**:	N/A

Background: On June 17, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Cast-Fab Technologies, Inc. ("Cast-Fab") of 3040 Forrer Street in Cincinnati, Ohio, to attempt an administrative settlement of the air violations at its ductile iron foundry at that address. The F&Os proposed to require Cast-Fab to pay a civil penalty of $130,600, of which (1) $94,480 would be due to Ohio EPA within 30 days after the effective date of the F&Os, (2) $26,120 would be due to the Ohio EPA's Clean Diesel School Bus Program Fund as a SEP within 30 days after the effective date of the F&Os, and (3) $10,000 would be directed to perform a pollution prevention study of the facility as a SEP within one year after the effective date of the F&Os.

[Note that the proposed F&Os were in the name of a number of parties related to Cast-Fab as well as the individual(s) or entity doing business as Cast-Fab because Cast-Fab could not be found in the Secretary of State's listing of incorporated entities. It was determined during negotiations that Cast-Fab is incorporated to do business in Ohio. The caption of the proposed F&Os was then changed to reflect Cast-Fab only.]

At the facility, Cast-Fab employs several emissions units ("EUs") as identified in the following:

Emissions Unit ID	EU Description
F014	Inoculation Process
F015, F016	3600 KW Coreless Electric Induction Furnaces
F018	3750 KW Coreless Electric Induction Furnace
F019	Large Mold Pouring and Cooling Line
F020	Medium Mold Pouring and Cooling Line
F021	Small Mold Pouring and Cooling Line
F022	Charge Handling
F023	Medium Mold Mixer and Mold-Making
F024	Large Mold Mixer and Mold-Making
K001	Light Fab Paint Booth with Paint Applicator
K003, K006	Paint Applicators for Small Castings
K010-K015	Paint Applicators for Medium/Large Castings
K016, K017	Paint Applicators for Heavy Fabrications

P014	Medium Mold Line Abrasive Cleaning
P015	Large Mold Line Abrasive Cleaning
P016	Small Mold Line Abrasive Cleaning
P026	Pneumatic Sand Handling System
P029	Small/Medium Line Grinding Booths
P030	Small Mold Line Casting Shakeout
P031	Medium Mold Line Casting Shakeout
P032	Large Mold Line Casting Shakeout
P034	Swing Grinding
P036	Small Mold Line Mold Making and Sand Preparation
P038	Sand Reclamation

On May 16, 2001, a Title V permit was issued for the facility. The permit expired in 2006; however, the permit continues in effect since Cast Fab submitted a timely renewal application.

This case involved the following violations of air pollution control laws, the Title V permit, and rules by Cast-Fab:

(1) Failed to perform weekly visible emissions checks when the EUs were in operation and record information, for about 137 days, from on or about April 25, 2005 until on or about December 31, 2006 for EUs F014 through F016 and F018 through F024, K001, K003, K006 and K010 through K017, P029 through P032, and P036; from April 25, 2005 to May 30, 2008 for EU P034; and for the weeks of June 11 and 18, 2007 for EUs P030 and P036, in violation of the Title V permit and ORC § 3704.05(J)(2);

(2) Failed to record pressure drop readings for the air pollution control equipment serving EUs P014 through P016, P026 and P038 on various days during a period from April 25, 2005 through September 12, 2007, in violation of the Title V permit and ORC § 3704.05(J)(2);

(3) Failure to check baghouses weekly and record observations for a period from April 25, 2005 through December 31, 2006 for EUs P029 through P032, and from on or about June 11, 2007 through June 25, 2007 for EU P036, in violation of the Title V permit and ORC § 3704.05(J)(2);

(4) Failure to collect and record coating information for each coating employed in EUs K010 through K017 on January 11, 2007 (coatings used on that day were recorded as being for EUs K018 through K020, which don't exist), in violation of

the Title V permit and ORC § 3704.05(J)(2);

(5) Failed to maintain the pressure drop, within the required ranges, across the baghouses serving EU P026 while the EU was in operation, except during startup and initial loading of filters following filter changes, on March 5 through 31, 2007; and across the baghouse and cartridge filter serving EU P038 while the EU was in operation, except during startup and initial loading of filters following filter changes, on February 15 through 19, 2007, February 21 through 27, 2007, March 10, 19 and 21, 2007, and from July 18 through September 20, 2007, in violation of the Title V permit and ORC § 3704.05(J)(2);

(6) Failed to timely submit accurate semi-annual deviation reports by July 31 following each half for the first halves of 2005 and 2006 and by January 31 of the following year for the second halves of 2005 and 2006 (accurate and complete reports were submitted in March 2007, in violation of the Title V permit and ORC § 3704.05(J)(2);

(7) Employed coatings in excess of the VOC emission limitation of 3.5 pounds of VOC per gallon of extreme performance coating, excluding water and exempt solvents, and taken as a daily, volume-weighted average, in EU K001, on January 25 and 30, February 4, March 2, 6 and 28, April 11 and 20, May 24, June 21, 28 and 29, July 15, August 24, September 1 and December 18 and 19, 2006, in violation of the Title V permit, OAC Rule 3745-21-09(U)(1)(c), and ORC § 3704.05(A), (G) and (J)(2);

(8) Failed to limit the coating usage to 3 gallons per day on February 10 and 28, and March 9, 17, 20, 23, 30 and 31, 2006 for EU K010; on February 28, March 3, 8 and 24, and October 9 and 16, 2006, and February 26, 2007 for EU K011; on March 17 and September 29, 2006 for EU K012; and on March 15 and September 29, 2006 for EU K013, in violation of the Title V permit and ORC § 3704.05(J)(2).

(See the EC Meeting Minutes of June 18, 2009 for additional background information.)

Cast-Fab indicated its desire to resolve the violations through the mechanism of the proposed F&Os. Comments on the proposed F&Os and settlement offers were exchanged through electronic mail. A settlement was eventually reached. A proposed SEP involving the enclosure of an area with fugitive dust emissions was rejected by Ohio EPA since it could be argued that control of such emissions was already required by existing regulations.

Action: On December 23, 2009, final F&Os were issued to Cast-Fab. The F&Os require Cast-Fab to pay Ohio EPA a civil penalty of $80,000 within 30 days after the effective date of the F&Os, of which $16,000 of that amount is to be directed to the Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

Case Closed

		Dates:	
Case Number:	2691	**EAR**:	12/28/07
Entity:	L&C, Inc., Lucille Hall; Unique Finishers, Inc., Kenneth and Belinda Hall; D&S Coating, Sandy and Dan Hall; Binks Coating, Lynn Binkly	**DWL**:	N/A
Field Office:	RAPCA	**F&Os**:	N/A
Contact:	Patty Porter/Tom Kalman	**Referral**:	12/30/09
Attorney:	Bryan Zima	**Dismissal**:	N/A

Background: L&C, Inc. and the Hall family owned and operated an automotive metal parts and products coating operation at 220 Fox Drive, Piqua, Ohio. The facility contained 13 coating lines (11 paint spray booths and two dip lines) and a mixing room for paints and solvents. These air contaminant sources were in operation for about seven years without permits to install and operate. The Regional Air Pollution Control Agency ("RAPCA") discovered this facility during a visit on February 16, 2006.

On March 29, 2006, RAPCA sent a letter to L&C, Inc. requesting the submittal of PTI applications for all of the emissions units at the Piqua facility within 30 days of receipt of the letter. No response was received. A full inspection was conducted on June 29, 2006, during which RAPCA found the coatings contained a maximum volatile organic compound ("VOC") content of 6.17 pounds per gallon of coating.

Based on information obtained from the company, the emissions units had been installed and operated without applying for and obtaining the required air permits. Also, based on purchase records, it was determined that the facility was subject to the Title V operating permit requirements due to exceeding the threshold level for hazardous air pollutants ("HAPs") (i.e., toluene) and was subject to the MACT requirements in Subpart MMMM.

RAPCA sent the company a Notice of Violation letter on August 15, 2006, wherein it informed the company that it violated the permit to install and Title V operating permit rules. Furthermore, the company was given the option of either obtaining a synthetic minor permit to limit HAPs to below major source applicability thresholds or comply with the applicable requirements of the MACT in Subpart MMMM by January 2, 2007. A compliance plan and schedule and other information were requested. No response was received.

When RAPCA attempted to visit the facility on May 4, 2007, the facility was found to be vacant and no forwarding address was available. By checking with paint suppliers, RAPCA found that the Hall family had moved to adjacent properties in Troy, Ohio, in about December 2006, and were operating under different names. Unique Finishers, Inc. and D&S Coating were both located at 537 North Elm Street, and Binks Coating was located at 543 ½ North Elm Street.

On July 31 and August 2, 2007, RAPCA visited the sites and found six paint spray booths being used. Some of the same equipment was being used that was formerly at the Piqua facility. Unique Finishers was employing a dip coating line and a paint spray booth. D&S Coating was employing a phosphate part washer and three paint spray booths. Binks Coating was employing one paint spray booth.

RAPCA attempted to obtain the proper permit applications from the owner/operators of each of the three facilities (Unique Finishers, Inc.; D&S Coating; Binks Coating). Since the facilities were contiguous and met Title V criteria, a Title V application was requested from the parties. The parties then argued that they were separate facilities. Compliance discussions ended when RAPCA was informed that the Hall family did not intend to cooperate any further and would continue to operate. As a result, RAPCA referred the matter to Ohio EPA for enforcement action on December 28, 2007.

On August 28, 2008, RAPCA inspected the Troy facility and discovered that Unique Finishers had vacated the building at 537 North Elm Street and a sign indicated that the business had moved to Piqua. Also, D&S Coating and Binks Coating were collocated in the garage behind Kenneth and Lucille Hall's house at 543 ½ North Elm Street. Also, equipment that they are using continually is changing among the parties.

Based on information currently available, the following violations were determined by RAPCA and Ohio EPA:

a) failed to apply for and obtain PTIs for the installation of 13 emissions units employed at the Piqua facility, in violation of ORC Rule 3745-31-02 and ORC § 3704.05(G);
b) failed to apply for and obtain PTI for the installation of the six emissions units employed at the Troy facilities, in violation of ORC Rule 3745-31-02 and ORC § 3704.05(G);
c) failed to apply for and obtain a Title V operating permit to operate both the Piqua and Troy facilities, in violation of ORC Rule 3745-77-02 and ORC §§ 3704.05(G) and (J)(2);
d) failed to keep the applicable records, in violation of OAC Rule 3745-21-09(B)(3) and ORC § 3704.05(G);
e) failed to submit fee emission reports, in violation of OAC Rule 3745-78-02(A) and ORC §§ 3704.05(G) and (J)(2); and
f) failed to comply with the applicable requirements of Subpart MMMM.

Since the parties would not cooperate with RAPCA in achieving compliance with applicable regulations, it was decided to recommend to the Director of Ohio EPA that the matter be referred to the Attorney General's Office ("AGO") for enforcement action.

Action: In a letter dated December 30, 2009, the Director referred the case against these parties to the AGO for enforcement action. Ohio EPA recommends that the AGO obtain a consent order with these parties that contains the necessary injunctive relief and requires the payment of an appropriate civil penalty consistent with the USEPA's civil penalty policy. Otherwise, the AGO should pursue an injunction to cease the operations until compliance is achieved.

DAPC has calculated a proposed penalty of $670,800 against the parties for the violations of the air pollution control requirements, using USEPA's air civil penalty policy. This penalty may changed upon discovery of additional information concerning the operations at the facilities.

Case Closed

		Dates:	
Case Number:	2693	**EAR**:	10/26/07
Entity:	Ameriseal & Restoration, LLC. d.b.a. Ameriseal	**DWL**:	N/A
Field Office:	Akron	**F&Os**:	12/30/09
Contact:	Felix Udeani/Tom Kalman	**Referral**:	N/A
Attorney:	Donald L. Vanterpool	**Dismissal**:	N/A

Background: On August 12, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Ameriseal & Restoration, LLC, d.b.a. Ameriseal ("Ameriseal"), with office located at 685 High Grove Blvd., Akron, Ohio, to attempt an administrative settlement of the air violations associated with its cutting and sawing of masonry at various job sites in Akron. The F&Os propose to require Ameriseal to:

(1) upon the effective date of the F&Os, employ reasonably available control measures ("RACM") to minimize or eliminate visible particulate emissions of fugitive dust for all masonry cutting and sawing operations at any of its Ohio construction sites located in the Appendix A areas identified in OAC Rule 3745-17-08, and maintain compliance with OAC Rule 3745-17-08(B);

(2) pay a total civil penalty of $15,000 to Ohio EPA;

(3) within 14 days after the effective date of the F&Os, pay $12,000 of the total civil penalty to Ohio EPA; and

(4) within 14 days after the effective date of the F&Os, pay $3,000 of the total civil penalty to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

The proposed F&Os addressed the violations of dust control regulations applicable to cutting and sawing of masonry. On the following dates and locations in Akron, the Akron Regional Air Quality Management District ("ARAQMD") observed Ameriseal's employees engaging in brick sawing operations without employing any manner of dust suppression (even though Ameriseal has water application equipment for its operations), in violation of OAC Rule 3745-17-08(B) and ORC § 3704.05(G):

April 26, 2007 (57 South Broadway Street)
June 11, 2007 (57 South Broadway Street)
September 20, 2007 (1115 South Main Street)
August 7, 2007 (12 East Exchange Street)
August 8, 2007 (12 East Exchange Street)
March 16, 2009 (54 Mill Street)

To correct these violations, Ameriseal committed to use dust collectors, vacuum equipment and water sprayers to reduce or eliminate visible particulate emissions of fugitive dust. However, the 2009 violation occurred after this commitment.

(See the EC Meeting Minutes of August 13, 2009 for additional background information.)

On December 17, 2009, a meeting was held with Ameriseal and its legal counsel to attempt to settle the matter with the proposed F&Os. A settlement was reached during the meeting. A payment plan was provided to Ameriseal in light of the financial condition of the company.

Action: On December 30, 2009, final F&Os were issued to Ameriseal and require the company to do the following:

(1) upon the effective date of the F&Os, employ RACM to minimize or eliminate visible particulate emissions of fugitive dust for all masonry cutting and sawing operations at any of its Ohio construction sites located in the Appendix A areas identified in OAC Rule 3745-17-08, and maintain compliance with OAC Rule 3745-17-08(B) thereafter:

(2) pay a total civil penalty of $6,700 to Ohio EPA;

(3) by January 15, 2010, pay $860 of the total civil penalty to Ohio EPA;

(4) by January 15, 2010, pay $1,340 of the total civil penalty to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP;

(5) by February 15, 2010, pay $2,200 of the total civil penalty to Ohio EPA; and

(6) by March 15, 2010, pay $2,300 of the total civil penalty to Ohio EPA.

Case Closed

		Dates:	
Case Number:	2708	**EAR**:	02/04/08
Entity:	A. David Sugar, Jr./Honey Creek Contracting Co., Inc./Excavation Technologies, Inc./Dave Sugar Excavating, LLC/Howland Company, LLC	**DWL**:	N/A
Field Office:	SEDO	**F&Os**:	N/A
Contact:	Muhammad Mereb/Tom Kalman	**Referral**:	12/30/09
Attorney:	Donald L. Vanterpool	**Dismissal**:	N/A

Background: A. David Sugar, Jr. ("Mr. Sugar, Jr.") is the incorporator of the following construction and excavation companies: Dave Sugar Excavating, LLC, Excavation Technologies, Inc., and Honey Creek Contracting Co., Inc., which are located at 11640 State Line Road, Petersburg, Ohio. The three businesses are incorporated with the Ohio Secretary of State to do business in Ohio. Howland Company, LLC, of 16 Wick Avenue, Suite 703, National City Bank Building, Youngstown, Ohio, is an asbestos abatement contractor and is incorporated with the State of Ohio to do business in Ohio. It appears to have separate ownership from Mr. Sugar, Jr.

Mr. Sugar, Jr. was the owner of the former Weirton Steel Plant located at 200 Slack Street, Steubenville, Jefferson County, Ohio. The former Weirton Steel Plant consisted of the following buildings: the Main Plant, Boiler House, Water Treatment Plant - Building #1, Water Treatment Plant - Building #2, Pump House, Clock Office, and Administration Office. The Main Plant consisted of several rooms/areas including, but not limited to, the following: Green Room, Conveyor and Hoist House, Scrap Storage, Cutting Lines, Annealing, Chrome and Tin Plating Lines, Machine Shop, Side Cutters, Demineralization Plant, Chromic Acid Loading, and Shipping.

Between March 31, 2003 and April 18, 2003, an asbestos building inspection survey was conducted by ABMECH Inc., in conjunction with AGX, Inc., as part of an application for financial assistance under the Clean Ohio Revitalization Fund. This survey was done before the former Weirton Steel Plant was purchased by Mr. Sugar, Jr. The cost of the survey was paid for by the City of Steubenville. On behalf of ABMECH Inc., AGX, Inc. conducted an asbestos building inspection of multiple bays, buildings and offices throughout the plant. A total of 820 bulk samples of representative materials suspected to contain asbestos were collected and analyzed by AGX, Inc.'s laboratory. Out of the total 820 samples collected, 643 were found to be asbestos-containing, and 177 were non-asbestos containing. Several samples in different locations were taken in several rooms to show that the entire floor area was to be considered contaminated. The

majority of the insulation debris and ground contamination was found throughout the Boiler House, and Conveyor and Hoist House. Several small rooms and offices were also contaminated. Roof samples were collected where accessible. Suspected materials from the electrical control panels located in various areas were randomly tested and found to contain asbestos. No internal boiler materials were sampled during the inspection. Several samples of wire coating and wire insulation were collected. The black wire insulation around the copper wires was tested and found to be asbestos-containing. The quantities of those materials containing any asbestos-containing material ("ACM") are shown in the following table. The type of asbestos present and its percent varies on a sample by sample basis. The laboratory reports for all samples were included with the building inspection report.

ACM	NESHAP Category	Quantity	RACM *
Surface materials	FAM**	19,012 sq. ft.	yes
Insulation debris	FAM**	15,650 sq. ft.	yes
Tank insulation	FAM**	4,858 sq. ft.	yes
Boiler insulation	FAM**	2,762 sq. ft.	yes
Furnace insulation	FAM**	486 sq. ft.	yes
Fittings and elbows	FAM**	7,492 fittings	yes
Pipe insulation	FAM**	29,809 lin. ft.	yes
Miscellaneous materials	FAM**	364 sq. ft.	yes

* RACM = Regulated asbestos-containing material as defined in OAC Rule 3745-20-01(B)(42).

** FAM = Friable asbestos material as defined in OAC Rule 3745-20-01(B)(20).

On March 9, 2005, Ohio EPA, Division of Air Pollution Control, Southeast District Office ("SEDO") received a complaint concerning asbestos removal work conducted by Mr. Sugar, Jr. or his companies' demolition workers at the former Weirton Steel Plant.

On March 13, 2005, representatives from SEDO conducted an inspection of the former Weirton Steel Plant. The inspectors observed that insulation had been recently disturbed or removed from pipes, and crushed by driving vehicles over it at an area called the Green Building. They also noticed pieces of white material that appeared to be pipe insulation on the floor of the Green Building; this material was dry and friable. Moreover, they took 12 samples of suspected ACM put-down, broken, and crushed at various locations in the facility by demolition employees of Mr. Sugar, Jr. or one of his companies. The crew chief was requested not to disturb any more insulation.

On March 15, 2005, Richard Gresley of Environmental Protection Systems, LLC called SEDO to inform Ohio EPA that Mr. Sugar, Jr. hired him to clean up any ACM present at the Green Building. Mr. Gresley was informed not to start any work before the proper notification had been submitted to Ohio EPA.

On March 17, 2005, Mr. Sugar, Jr. called a SEDO representative, and he denied that his employees disturbed any asbestos at the facility. The SEDO representative informed Mr. Sugar, Jr. that he inspected the building last fall and there was no material on the ground or any equipment taken down at that time. Jim Davidson was the crew supervisor at that time and he informed SEDO's representative that the ACM will be removed soon by an asbestos abatement company.

On March 22, 2005, SEDO received the results of the analysis for the samples that were collected on March 13, 2005, and it showed that 10 of the 12 samples contained amosite asbestos in the range of 13% to 25% and/or chrysotile asbestos in the range of 2% to 20%. Therefore, the material from which these samples were taken was "friable asbestos material," as defined in OAC Rule 3745-20-01(B)(20). This demolition project exceeded the threshold values in OAC Rule 3745-20-02(B)(1) and therefore the project was subject to the notification and work practice requirements of OAC Rules 3745-20-03, 3745-20-04, and 3745-20-05. As a result, Mr. Sugar, Jr. and Honey Creek Contracting Co., Inc. violated OAC Rule 3745-20-04(A)(1) and OAC Rule 20-04(A)(6)(a) on March 13, 2005, by failing to remove ACM prior to disturbing the material and failing to keep removed or stripped ACM adequately wet until collected for disposal. Also, Mr. Sugar, Jr. did not provide Ohio EPA with written notice of intention to demolish or renovate the former Weirton Steel Plant before the beginning of any asbestos stripping or removal work, in violation of OAC Rule 3745-20-03(A). This violation was cited as a result of the work done on and before March 13, 2005 at the former Weirton Steel Plant.

On March 24, 2005, representatives from SEDO and the Ohio Department of Health ("ODH") conducted a joint inspection at the former Weirton Steel Plant; however, they were asked to leave the property by Dan Burnette per Mr. Sugar, Jr.'s request.

On April 6, 2005, SEDO sent a warning letter to Mr. Sugar, Jr. The letter requested him to submit a plan stating procedures for cleaning up and securing any exposed or broken RACM in or about the Green Building.

On April 7, 2005, SEDO received the original notification of demolition for the Green Building (200,000+ sq. ft.) of the former Weirton Steel Plant that consisted of three floors. Regulated asbestos-containing material ("RACM") to be removed according to the notification was identified as 10,000 linear feet on pipe and 25 cubic yards from

other sources. Demolition was selected as the type of operation. Dates for asbestos removal were from April 18 to May 18, 2005, while dates for demolition were from May 23 to August 30, 2005. The owner of the building was identified as Mr. Sugar, Jr. and the asbestos removal contractor was identified as Environmental Protection Systems, LLC. The demolition contractor was identified as Excavation Technologies, Inc. Environmental Protection Systems, LLC and JMW Trucking Services were identified as the waste transporters, while Minerva Enterprises, Inc. was the waste disposal facility. Revisions to the original notification were received by SEDO on April 18, May 2, May 19, May 27, and June 27, 2005. The changes included different asbestos removal start dates, completion dates, and work schedules. The revision of May 2, 2005 included a change of RACM to be removed from pipes from 10,000 to 6,000 linear feet. The revision of May 19, 2005 listed June 23, 2005 as the completion date for asbestos removal.

On December 5, 2005, Mr. Sugar, Jr. returned a call from a representative from SEDO, and he indicated that he planned to rent out the facility as a warehouse; otherwise, he may demolish it in a year or so. However, demolition was selected as the type of operation in the notification of April 7, 2005. Mr. Sugar, Jr. indicated that Honey Creek Contracting Co., Inc. was doing the non-asbestos related work at the facility.

On March 28, 2006, SEDO received a complaint from ODH. It was indicated that the former Weirton Steel Plant was being demolished. ODH took photos to document the work that had been done. SEDO called Mr. Sugar, Jr., and he stated that they had been removing equipment from the facility since August 2005. However, the date of the demolition completion was indicated as August 30, 2005 in the last notification revision of June 27, 2005.

Mr. Sugar, Jr. or one of his companies did not submit an amended notification to Ohio EPA to reflect the change in work scheduled at the former Weirton Steel Plant between August 30, 2005 (scheduled demolition completion per the revised notification of June 27, 2005) and at least March 28, 2006, in violation of OAC Rule 3745-20-03(D).

On April 11, 2006, SEDO sent a Notice of Violation ("NOV") letter to Mr. Sugar, Jr. The letter informed him that SEDO had obtained a copy of the report of the former Weirton Steel Plant asbestos survey that was conducted on March 31 through April 18, 2003. The report documented the locations and amounts of all the RACM identified in the facility. The NOV cited Mr. Sugar, Jr. with violating the requirements specified in OAC Chapter 3745-20. The NOV also requested the submission of a plan and schedule to abate any remaining ACM from all buildings at the former Weirton Steel Plant using licensed asbestos abatement contractors, in addition to a report that identified all of the

ACM left in the remaining buildings. The NOV also requested a report from Environmental Protection Systems, LLC that documents the amounts and locations where ACM was removed during the abatement work conducted in 2005.

On April 17, 2006, SEDO received a revised demolition notification from Honey Creek Contracting Co., Inc. In this notification, the owner was changed from Mr. Sugar, Jr. to Honey Creek Contracting Co., Inc., and it was signed by Mr. Harry Manganaro. No asbestos removal dates were specified, while the demolition dates were from April 26, 2006 to November 30, 2006. The purpose of the notification was to cut steel at various areas at the facility.

On April 26, 2006, SEDO received Mr. Sugar, Jr.'s response to the NOV of April 11, 2006. He indicated that Environmental Protection Systems, LLC was hired to abate the Green Building which housed equipment to be removed along with the tank area at the rear of the property and any loose material. Also, he indicated that the goal was to remove all the equipment and use the former Weirton Steel Plant as a warehouse facility. He also indicated that Honey Creek Contracting Co., Inc. did not anticipate taking down the Boiler House or any safe structures at that time, and the goal was to cleanup the property and use the buildings. After Environmental Protection Systems, LLC completed the required cleanup and removal of ACM over several months, Honey Creek Contracting Co., Inc. was to remove the equipment and clean the rear of the property. He also indicated that they had contracted Phase One Development Corporation for asbestos removal.

On April 26, 2006, SEDO received a copy of the contract between Dave Sugar Excavating, Inc. and Environmental Protection Systems, LLC to demolish the Green Building. The package also included a copy of an asbestos waste shipment record of 578 double bags of friable asbestos-containing waste material that was signed by John Lucas of Environmental Protection Systems, LLC, as the operator on June 14, 2005. The reports from Environmental Protection Systems, LLC showed that asbestos removal activities occurred on various dates from April 20, 2005 to June 23, 2005. These dates were covered by the notifications.

On July 7, 2006, SEDO received a new demolition notification from Honey Creek Contracting, Co., Inc. The notification was to remove 17,000 linear feet of RACM on pipe from the former Weirton Steel Plant. It did not specify the buildings where the ACM was planned to be removed; however, it stated that buildings would be demolished with machinery. The asbestos removal dates were from July 18, 2006 to December 29, 2006. The asbestos removal contractor was identified as Phase One Development Corporation, and Mr. Sugar, Jr. was identified as the owner.

On August 28, 2006, a representative from ODH had issued a public health emergency notice after conducting an inspection of the facility for the failure of Honey Creek Contracting Co., Inc. and Phase one Development Corporation to follow the ODH required abatement procedures.

On August 29, 2006, representatives from SEDO and Ohio EPA Central Office conducted an inspection of the asbestos abatement work at the former Weirton Steel Plant in response to a complaint from ODH. It was determined that the release of ACM to the ambient air from the facility constituted a violation of OAC Rule 3745-15-07 due to the health consequences which might have occurred from the exposure to ACM.

On October 3, 2006, SEDO sent a NOV to Mr. Sugar, Jr. The NOV requested him to address several issues before the demolition of any part of the facility could occur. These include the following:

- Removal of the remaining thermal pipe insulation due to its friable nature.
- Removal of the floor tile in the office building because it was very brittle and could be rendered friable very easily during remediation.
- Removal of all galbestos siding and the galbestos debris from the siding.
- Sampling of the floors in the remaining buildings to determine the extent of the asbestos contamination.
- Inspecting and sampling the pits to determine if any ACM waste was in them.
- Sampling the Boiler House for any ACM.
- Employing a third party asbestos hazard evaluation specialist to inspect the facility before abatement work can resume.
- Revising or submitting a notification of demolition and renovation that accurately describes the work that will be done at the site before any future abatement or demolition work.

On October 23, 2006, SEDO received Mr. Sugar, Jr.'s response to the NOV of October 3, 2006. It was indicated that he was only the property owner and Phase One Development Corporation was hired to remediate all asbestos on the property except the Boiler House which will be handled by a different contractor. Mr. Sugar, Jr. believed that it was the responsibility of the contractor to follow the rules of Ohio EPA. It was also indicated that John Evan, a certified asbestos evaluation specialist from Howland Company, LLC, was hired by Mr. Sugar, Jr. at the start of Phase One Development Corporation's work, and he was preparing a report that would be forwarded to SEDO when it became available.

On December 5, 2006, Phase One Development Corporation sent by fax the results of an asbestos analysis for 11 floor debris samples that were collected from various locations. The analysis indicated that no asbestos was detected in any of them.

On April 11, 2007, representatives from SEDO and Ohio EPA Central Office met with Mr. Sugar, Jr. for a site inspection. Mr. David Sugar, Jr. wanted to start demolition of most of the remaining buildings. An inspection was conducted and several areas of concern were found where asbestos insulated pipes were located. The Boiler House was inspected, and it was noticed that most of the asbestos insulation was in a significantly damaged condition, and that most of the metal siding on two sides of the Boiler House has been removed. These conditions may have allowed asbestos to be released to the ambient air.

On May 18, 2007, Howland Company, LLC submitted a bid to Mr. Sugar, Jr. for the removal of ACM from the Boiler House and Demineralization Building at the former Weirton Steel Plant. The ACM identified in the Boiler House was approximately 3,600 linear feet on pipe, 11,500 square feet on facility components, and miscellaneous ACM on the 1st floor, 2nd floor, and 3rd floor, and on the exterior of the Boiler House. The estimated ACM based on the asbestos survey that was conducted in 2003 was about 4,670 linear feet on pipe, and 12,310 square feet on facility components, while the ACM in the Demineralization Building was identified as about 298 linear feet on pipes.

On May 24, 2007, SEDO received a new demolition notification for demolishing the Boiler House and Demineralization Building at the former Weirton Steel Plant from Mr. Sugar, Jr. The asbestos removal contractor was identified as Respondent Howland Company, LLC. RACM to be removed was 2,250 linear feet on pipe and 8,750 square feet on facility components. Dates of asbestos removal were given as June 6, 2007 through July 20, 2007. The transporter was Ace Roll-Off Service, Inc. Waste Disposal was to be provided by Minerva Enterprises. The notification was signed by Howland Company LLC.

On June 12, 2007, Harry Manganaro of Dave Sugar Excavating, Inc. informed SEDO that an asbestos evaluation was conducted after SEDO's inspection of April 11, 2007 for suspected ACM on pipe wrap. The evaluation revealed only 38 linear feet of ACM on pipes. Much of the suspected material was determined to be fiberglass. He also indicated that the Boiler House was currently being abated. Mr. Manganaro indicated that a separate notification would be submitted for the demolition of the Main Building.

On June 28, 2007, SEDO received a revision to the demolition notification of May 24, 2007 by fax from Dave Sugar Excavating, LLC. The new asbestos removal dates were from June 21, 2007 to October 12, 2007. It was indicated that following proper abatement of the remaining asbestos, the building will be demolished and reclaimed as scrap steel.

On July 5, 2007, a representative from SEDO inspected the Boiler House and the Demineralization Building to observe the asbestos removal activities by Respondent Howland Company, LLC. Mini-containments were being constructed within the Boiler House, and it was not fully contained as previously discussed. On July 9, 2007, a representative from SEDO called Harry Manganaro concerning the mini-containment and Mr. Manganaro indicated that they will build a full containment of the building.

On August 2, 2007, representatives from SEDO and ODH conducted a joint inspection at the former Weirton Steel Plant. When they arrived, abatement activities were occurring in the Boiler House and the Demineralization Plant by Howland Company, LLC. Four black bags of asbestos waste were found lying on the ground between the southern end of the Boiler House and the asbestos waste disposal dumpster. There was no asbestos label on the dumpster. Upon examination of the bags, one of the bags was noted to be ripped open. It was determined that the asbestos material in the bag was not adequately wet and that it was not sealed in a leak-tight manner. The bags did not have labels attached to them. Additionally, the dry ACM was not double bagged. One sample was collected from the ripped bag and an analysis revealed a total asbestos content of 23 to 35%. The ODH representative issued a public health emergency based on the above findings.

The following violations of OAC Chapter 3745-20 were observed by Howland Company, LLC and Mr. Sugar, Jr. during the inspection of August 2, 2007;

a. In violation of OAC Rule 3745-20-05(B)(1)(a), the material in the bags of asbestos waste were not adequately wet;

b. In violation of OAC Rule 3745-20-05(B)(1)(c), one bag was not sealed in durable leak-tight containers;

c. In violation of OAC Rule 3745-20-05(C)(1), there was no asbestos warning label on the dumpster;

d. In violation of OAC Rule 3745-20-05(C)(1), four (4) bags were not labeled with the name of the waste generator and the location at which the waste was generated; and

e. In violation of OAC Rule 3745-20-05(C)(2), four (4) bags were not sealed in plastic bags having a thickness of at least 0.0006 inch.

On August 6, 2007, representatives from SEDO and ODH conducted a joint follow-up inspection at the former Weirton Steel Plant. The abatement supervisor was Marty Boulton from Howland Company, LLC. During the inspection, the representatives entered the containment area. While inside the Boiler House, large piles of ACM were noted on the floor beneath a large suspended tank. The material consisted of wire wrapped ACM and block material. The material had fallen onto and destroyed one of the mini-containment areas. Dozens of bags of ACM waste were observed on the 1st floor, 2nd floor, and the basement of the Boiler House. Upon inspection of several bags on each floor, it was determined that much of the ACM waste material was not adequately wet. Several bags of ACM were also observed to be ripped and punctured. SEDO representative took photos of the bags and collected a sample from a dry bag on the first floor of the Boiler House. ODH representative issued a public health emergency based on the above findings. The results of the analysis later revealed a total asbestos content of 25 to 40% (20% - 30% chrysotile and 5% - 10% crocidolite).

The following violations of OAC Chapter 3745-20 were observed during the inspection of August 6, 2007:

a. In violation of OAC Rule 3745-20-04(A)(1), approximately 750 square feet of ACM from a large overhead tank was disturbed on August 2, 2007 and left in disturbed condition until the time of the inspection;

b. In violation of OAC Rule 3745-20-05(B)(1)(c), approximately 20 bags of asbestos-containing waste material were not sealed in durable leak-tight containers;

c. In violation of OAC Rule 3745-20-05(C)(1), there was no asbestos warning label on the dumpster;

d. In violation of OAC Rule 3745-20-05(C)(1), several bags were not labeled with the name of the waste generator and the location at which the waste was generated and

e. In violation of OAC Rule 3745-20-05(C)(2), six (6) bags were not sealed in plastic bags having a thickness of at least 0.0006 inch.

On August 14, 2007, SEDO sent NOV letters to Mr. Sugar, Jr. and Howland Company, LLC based on the findings of the inspections of August 2, 2007 and August 6, 2007. The NOV requested Mr. Sugar, Jr. to submit a summary of how the above violations were to be addressed, an update regarding Mr. Sugar, Jr.'s current and future asbestos abatement and demolition activities for the former Weirton Steel Plant, and a detailed description of the techniques and methods to be employed for all future asbestos abatement activities at the plant.

On August 27, 2007, SEDO received Mr. Sugar's response to the NOV of August 14, 1007. It was indicated that Howland Company, LLC was hired to properly handle the abatement of the Boiler House and Demineralization Room properly.

On November 19, 2007, SEDO received another revision to the demolition notification of May 24, 2007. In the revision the completion date of asbestos removal was changed to December 21, 2007.

On July 2, 2008, an inspector from SEDO visited the former Weirton Steel Facility. The gate was locked; however, looking through the fence, the inspector observed a large excavator with a shear attachment and over one dozen large gas cylinders. The inspector also observed scrapping equipment at the site. No notification was filed for any abatement work during this time period.

On August 14, 2008, an inspector from SEDO conducted an inspection of the exterior of the Boiler House and Demineralization Plant at the former Weirton Steel Plant. Per the most recent revision to the original notification of May 24, 2008, the abatement was to be completed by August 31, 2008, by Howland Company, LLC. There were no representatives of Howland Company, LLC on site at the time of inspection; however, the inspector observed the following violations:

a. The asbestos waste dumpster was approximately half full of bagged asbestos waste and the inspector observed approximately 6 bags of asbestos-containing waste material with ripped outer 6 mil bags, in violation of OAC Rule 3745-20-05(C)(2).

b. The inspector observed that the vast majority of the waste bags did not have waste generator attached to them, in violation of OAC Rule 3745-20-05(C)(1).

On August 28, 2008, an inspector from SEDO conducted a follow-up inspection of the former Weirton Steel Plant. The inspector noticed that the violations of August 14, 2008 were not fixed yet, in addition to the following violations:

a. The inspector observed two asbestos abatement glove bags in the dumpster. The glove bags contained inadequate wetted mag-block asbestos insulation, in violation of OAC Rule 3745-20-05(B)(1)(a).

b. The glove bags were not contained in second leak tight plastic bags, in violation of OAC Rule 3745-20-05(C)(1).

c. The glove bags did not have generator labels attached to them, in violation of OAC Rule 3745-20-05(C)(1).

On September 5, 2008, SEDO sent a NOV to Mr. Sugar, Jr. and Howland Company, LLC. The NOV requested them to submit a compliance plan and an update regarding the current and future demolition activities for the former Weirton Steel Plant. The former Weirton Steel Plant had not yet been completely demolished; however, Mr. Sugar, Jr. is intending on initiating demolition of the facility in the near future. Additional asbestos abatement needs to be completed to allow for the start of the demolition.

Mr. Sugar, Sr. hired CMM Inc. to conduct a detailed asbestos survey of the facility to address concerns raised by SEDO and ODH. The survey was conducted in August/September 2008 and it was received by SEDO on June 10, 2009.

The following table summarizes the OAC rules that have been violated by Respondents at the former Weirton Steel Plant and the dates each violation occurred:

ORC Rule	Dates of Violation Discovery	Responsible Party
3745-20-03(A)(1)	3/13/05, 8/29/06	A. David Sugar, Jr., et al.
3745-20-03(D)	3/28/06	A. David Sugar, Jr., et al.
3745-20-05(B)(1)(a)	8/2/07, 8/6/07, 8/28/08	Howland Company, LLC and A. David Sugar, Jr.
3745-20-05(B)(1)(c)	8/2/07, 8/6/07	Howland Company, LLC and A. David Sugar, Jr.
3745-20-05(C)(1)	8/2/07, 8/6/07, 8/14/08, 8/28/08	Howland Company, LLC and A. David Sugar, Jr.
3745-20-05(C)(2)	8/2/07, 8/6/07, 8/14/08, 8/28/08	Howland Company, LLC and A. David Sugar, Jr.

3745-20-04(A)(1)	3/13/05, 8/6/07	Howland Company, LLC, A. David Sugar, Jr., and Honey Creek Contracting Co., Inc.
3745-20-04(A)(6)(a)	3/13/05	David Sugar, Jr. and Honey Creek Contracting Co., Inc.
3745-15-07	8/29/06	Howland Company, LLC and A. David Sugar, Jr.

ORC § 3704.05(G) states that no person shall violate any order, rule, determination of the Director issued, adopted, or made under ORC Chapter 3704. OAC Chapter 3745-20 was adopted by the Director pursuant to ORC Chapter 3704. Any violation of a rule in OAC Chapters 3745-20 and 3745-15 as defined above, was also a violation of ORC § 3704.05(G).

On February 4, 2008, SEDO submitted an Enforcement Action Request to Ohio EPA for the above-mentioned violations. Since the Attorney General's Office ("AGO") already had two cases involving Mr. Sugar's Excavation Technologies, Inc., it was decided to recommend to the Director that this case be referred to the AGO to combine enforcement actions.

Action: In a letter dated December 30, 2009, the Director referred this case to the AGO for enforcement action. It was requested that the AGO have the appropriate parties properly remove all the accessible RACM from the Boiler House and the Demineralization Plant before restarting any demolition work at the facility. Also, a civil penalty of $102,000 was requested to be obtained from the appropriate parties for the violations that DAPC is aware of.

Case Closed

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		Dates:	
Case Number:	2713	**EAR**:	04/10/08
Entity:	Quality Ready Mix, Inc.	**DWL**:	N/A
Field Office:	NWDO	**F&Os**:	12/22/09
Contact:	Patty Porter/Tom Kalman	**Referral**:	N/A
Attorney:	Bryan Zima	**Dismissal**:	N/A

Background: On August 20, 2009, proposed Director's Final Findings and Orders

("F&Os") were sent to Quality Ready Mix, Inc. ("Quality") of 16672 County Road 66A North in St. Marys, Ohio, to attempt an administrative settlement of the violations of air pollution control requirements that occurred at the company's former concrete batching plant located at 1670 North McCullough Street in Lima, Ohio. The F&Os proposed to require Quality to pay a civil penalty of $28,800, of which $5,700 would be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP and $5,000 would go toward the performance of a pollution prevention study of one or more of its facilities as a SEP. The penalty payments were proposed to be due within 14 days after the effective date of the F&Os, and the pollution prevention study was to be completed within 330 days after the effective date of the F&Os.

The facility mixed cement and other raw materials to produce concrete that was sold to various customers. Cement was delivered to the facility by trucks and pneumatically unloaded into a cement storage silo equipped with a fabric filter to control particulate emissions during loading of the silo. The cement along with other raw materials were weighed in weigh hoppers that were also equipped with a fabric filter to minimize particulate emissions. In December 2008, Quality gave notice that it was ceasing operations at this site and removed the equipment from the site. Quality owns and operates several other concrete batching facilities in Ohio

The proposed F&Os cited Quality with the following violations:

(1) During the period from March 7, 2007 to April 10, 2007, for at least 16 incidents during pneumatic conveying of cement from tanker trucks to the silo, Quality failed to employ control equipment on the silo that achieved an outlet grain loading of not greater than 0.030 grain per dry standard cubic foot of exhaust gas or no visible emissions, whichever was less stringent, in violation of PTI #03-6000, OAC Rule 3745-17-08(B), and ORC § 3704.05(C) and (G). On each of those incidents, visible emissions were seen from the discharge of the fabric filter serving the silo and particulate emission calculations found the grain loadings to exceed 0.030 grain per dry standard cubic foot. These violations were corrected by Quality on December 3, 2008 when the facility ceased production at this site.

(2) Quality was not maintaining the fabric filters at the facility in accordance with good engineering practices to minimize air contaminant emissions as required by PTI #03-6000, in violation of PTI #03-6000 and ORC § 3704.05(C). In fact, it appeared that the only time the fabric filters were serviced was due to citizen dust complaints and NWDO's inspections. The exact dates of the violations are not known; however, they occurred from at least August 25, 2006, the date of NWDO's first inspection, and continued until September 13, 2006, the date

Quality repaired and replaced the torn and clogged bags on the weigh hopper fabric filter. On September 7, 2006, Quality completed similar maintenance on the cement silo's fabric filter.

On December 3, 2008, Quality informed Ohio EPA that the facility would be ceasing production at this site and that operations would be relocated to another site. On December 11, 2008, NWDO staff visited the facility and observed that the cement silo was loaded onto a flat bed trailer for removal.

(See the EC Meeting Minutes of August 27, 2009 for additional background information.)

Quality and Ohio EPA were able to reach a settlement via the proposed F&Os through electronic correspondence.

Action: On December 22, 2009, final F&Os were issued to Quality to resolve the claims for the violations. The F&Os require Quality to pay a civil penalty of $15,000 to Ohio EPA within 14 days after the effective date of the F&Os. Of that amount, $3,000 is to be directed to the Ohio EPA's Clean Diesel School Bus Program Fund as a SEP. Quality elected to not perform a pollution prevention study.

Case Closed

		Dates:	
Case Number:	2725	**EAR**:	05/16/08
Entity:	Hosea Project Movers, LLC	**DWL**:	N/A
Field Office:	HAMCO	**F&Os**:	12/23/09
Contact:	Tan Tran/Tom Kalman	**Referral**:	N/A
Attorney:	Stephen Feldmann	**Dismissal**:	N/A

Background: On June 17, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Todd Hosea, d.b.a. Hosea Project Movers, with office at 3951 Madison Pike in Covington, Kentucky, to attempt an administrative settlement of the violations of the asbestos emission control standards associated with the renovation of the Crosley Building located at 1333 Arlington Street, Cincinnati, Ohio. The F&Os proposed to require Mr. Hosea to pay a civil penalty of $49,500 to Ohio EPA within 30 days after the effective date of the F&Os, of which 20 percent ($9,900) would be

directed to the Ohio EPA's Clean Diesel School Bus Program Fund as a SEP. The proposed F&Os addressed the following violations of the asbestos emission control standards in OAC Chapter 3745-20 and State law:

(1) OAC Rule 3745-20-03(A), by failing to submit a notification to the Hamilton County Department of Environmental Services ("HAMCO") or Ohio EPA at least ten days prior to the start of the renovation;

(2) OAC Rule 3745-20-04(A)(1), by failing to completely remove all regulated asbestos-containing material ("RACM") from the facility being renovated before any activity begins that would break up the materials (RACM debris was observed scatteringly on floors 2 through 6 during the inspection by HAMCO on September 6, 2007);

(3) OAC Rule 3745-20-04(A)(6)(a), by failing to maintain removed or stripped friable asbestos material in a wetted condition until the material was collected for disposal (RACM debris, observed on floors 2 through 6, were in a dry condition at the time of HAMCO's September 6, 2007 inspection);

(4) OAC Rule 3745-20-05(B)(1)(c), by failing to maintain RACM debris in a wetted condition and sealed in durable leak-tight containers for disposal;

(5) OAC Rule 3745-20-05(C)(1), by failing to comply with the labeling requirements for the dumpsters with RACM debris at the time of HAMCO's September 6, 2007 inspection; and

(6) ORC § 3704.05(G), for violating rules adopted by the Director pursuant to ORC Chapter 3704.

As a result of HAMCO's September 6, 2007 inspection of the facility, the renovation work was stopped and an asbestos abatement contractor was hired to conduct a removal of the remaining exposed RACM and a cleanup of the RACM debris between October 8 and November 12, 2007. HAMCO confirmed the acceptable completion of the renovation project during an inspection on November 14, 2007.

(See the EC Meeting Minutes of June 18, 2009 for additional background information.)

On August 26, 2009, a meeting was held with D. Todd Hosea of Hosea Project Movers, LLC to discuss settlement of the violations with the proposed F&Os. No settlement was reached during the meeting, but Mr. Hosea promised to make an offer after discussion

with family members. At that time, it was determined that Hosea Project Movers, LLC was incorporated with the Secretary of State's Office and was the responsible party.

On September 28, 2009, Mr. Hosea made an offer of $10,000 to settle the matter. No reason was provided for the offer other than alleged poor business conditions and the expense the building had cost the company. Ohio EPA then countered with an offer of $32,000. On November 11, 2009, Mr. Hosea countered with an offer of $16,000 payable over a 12-month period. Ohio EPA subsequently offered $28,000 over a 12-month period, based on 30% mitigation for cooperation. A settlement was eventually reached at $22,000 payable over a 12-month period.

Action: On December 23, 2009, final F&Os were issued to Hosea Project Movers, LLC ("Hosea") to resolve the above-mentioned violations. The F&Os require Hosea to pay a civil penalty of $22,000 to Ohio EPA in five equal installments of $4,400 each, which are due within 30, 90, 180, 270 and 360 days after the effective date of the F&Os. The first payment of $4,400 is to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

Case Closed

		Dates:	
Case Number:	2808	**EAR**:	03/20/09
Entity:	Randy Wise	**DWL**:	N/A
Field Office:	NWDO	**F&Os**:	12/23/09 (unil.)
Contact:	Felix Udeani/Tom Kalman	**Referral**:	N/A
Attorney:	Stephen Feldmann	**Dismissal**:	N/A

Background: Randy Wise owns the residential property located at 10515 County Road 12 in Pike Township of Fulton County. This property is located in an "unrestricted area" as defined in the open burning rules of OAC Chapter 3745-19. OAC Rule 3745-19-04(A) prohibits open burning in an unrestricted area except as specified therein. The exceptions therein do not include the open burning of landscape waste and tires from motor vehicles.

On November 5, 2008, Mr. Wise conducted open burning of landscape waste and approximately 20 to 30 tires. The Northwest District Office of Ohio EPA ("NWDO") sent

a Notice of Violation letter to Mr. Wise on December 4, 2008, which cited him for open burning in violation of OAC Rule 3745-19-04(A).

On March 20, 2009, NWDO sent an Enforcement Action Request ("EAR") to Central Office for the above-mentioned violation. The EAR requested that the violation be resolved through unilateral findings and orders with a civil penalty based on the provisions in OAC Rule 3745-19-06.

Action: On December 23, 2009, unilateral Director's Final Findings and Orders ("F&Os") were issued to Mr. Wise. The F&Os require Mr. Wise to pay a civil penalty of $250 to Ohio EPA within 30 days after the effective date of the F&Os. The penalty is based on a factor of $250 per day per violation pursuant to OAC Rule 3745-19-06 for open burning on residential property. This one day violation was pursued with penalties due to the size of the fire and the fact that vehicle tires were burned.

Case Closed

		Dates:	
Case Number:	2816	**EAR**:	04/16/09
Entity:	Republic Engineered Products, Inc.	**DWL**:	N/A
Field Office:	NEDO	**F&Os**:	12/30/09
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 Republic Engineered Products, Inc. ("Republic") to attempt an administrative settlement of the violations at its integrated steel plant located at 1807 E. 28th Street, Lorain, Lorain County, Ohio. The F&Os proposed to require Republic to pay Ohio EPA a civil penalty of $59,000 within 14 days after the effective date of the F&Os. Of the total penalty, it was proposed that $11,800 be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

The proposed F&Os addressed the following violations of the facility's Title V permit and State law relating to nitrogen oxide ("NOx") emissions from emissions unit P081, a 421.6 million Btu/hr bloom reheat furnace with low NOx burner:

(1) Exceedance of the NOx emission limitation of 0.132 pound per million Btu ("lb/MM Btu") from November 13, 2007 (test date with failing measured NOx emissions of 0.141 lb/MM Btu) to April 8, 2008 (test date with complying measured NOx emissions of 0.044 lb/MM Btu), in violation of the Title V permit and ORC § 3704.05(J)(2);

(2) Exceedance of the NOx emission limitation of 0.132 lb/MM Btu from November 12, 2008 (test date with failing measured NOx emissions of 0.230 lb/MM Btu) to December 19, 2008 (test date with complying measured NOx emissions of 0.063 lb/MM Btu), in violation of the Title V permit and ORC § 3704.05(J)(2); and

(3) Failing to comply with the prohibition on violating any terms and conditions of a permit issued by the Director, due to the above-mentioned exceedances, in violation of ORC § 3704.05(J)(2).

Compliance was achieved in both violating periods by making repairs to the emissions unit.

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

A settlement was reached with Republic via the proposed F&Os through written and electronic correspondence.

Action: On December 30, 2009, final F&Os were issued to Republic. The F&Os require the payment of a civil penalty of $30,600 within 45 days after the effective date of the F&Os, of which $6,120 is due to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

Case Closed

		Dates:	
Case Number:	2825	**EAR**:	05/08/09
Entity:	EI Ceramics, LLC.	**DWL**:	N/A
Field Office:	HAMCO	**F&Os**:	12/21/09
Contact:	Jim Kavalec/Tom Kalman	**Referral**:	N/A
Attorney:	Stephen Feldmann	**Dismissal**:	N/A

Background: On November 12, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to EI Ceramics of 2600 Commerce Boulevard in Cincinnati, Ohio, to attempt an administrative settlement of the air violations that occurred at the facility. The F&Os proposed to require the company to pay a civil penalty of $175,000 within 14 days after the effective date of the F&Os, of which $35,000 would be directed to the Ohio EPA's Clean Diesel School Bus Program Fund as a SEP. The penalty derivation included mitigation for cooperation (10% or $20,500) for immediately correcting the violations upon discovery by HAMCO and mitigation for unique factors in the amount of 10% ($9,500) of the portion of the penalty relating to temperature deviations.

The proposed F&Os addressed the following violations of air pollution control permits and laws concerning a mixing process ("emissions unit P001"); blending, pressing, glazing and curing process with fabric filter ("emissions unit P002"); kiln #1 ("emissions unit P003"); kiln #2 ("emissions unit P004"); and curing oven #2 ("emissions unit P005"). Emissions units P002 and P005 are vented to a common thermal oxidizer, while emissions units P001, P003 and P004 are vented to separate thermal oxidizers:

(1) For emissions units P001 through P003, from April 30, 2005 (the date that the first quarterly deviation report for 2005 was due) until March 11, 2008, a total of 1,046 days, EI Ceramics failed to submit annual emissions reports and quarterly deviation reports for the years 2005, 2006 and 2007, in violation of PTI 14-05345, PTI 14-05702 and ORC § 3704.05(C). EI Ceramics provided the annual emissions reports and the quarterly deviation reports for the years 2005, 2006 and 2007 to HAMCO at the time of the inspection.

(2) For emissions unit P001, from November 19, 2002 until March 24, 2008, a total of 278 days, EI Ceramics failed to record the pressure drop across the fabric filter on a weekly basis, in violation of PTI 14-05345 and ORC § 3704.05(C).

(3) For emissions unit P001, from November 19, 2002 until March 11, 2008, a total of 1,938 days, EI Ceramics failed to operate and maintain a continuous temperature monitor and recorder for the thermal oxidizer, in violation of PTI 14-05345 and ORC § 3704.05(C). At the time of the inspection, EI Ceramics made the necessary adjustments to ensure the monitor and recorder were continuously running.

(4) For emissions unit P002, the average combustion temperature for the thermal oxidizer, for any 3-hour block of time when emissions unit P002 was in operation, was required to be not less than 1,450 degrees Fahrenheit. For 55 percent of the operating time between November 19, 2002 and March 11, 2008, EI

Ceramics failed to keep the average combustion temperature of the thermal oxidizer at no less than 1,450 degrees Fahrenheit, in violation of PTI 14-05345 and ORC § 3704.05(C).

(5) For emissions unit P002, EI Ceramics exceeded the annual OC emissions rate of 11.0 tons per year ("TPY") for the years 2006 and 2007, in violation of PTI 14-05345 and ORC § 3704.05(C). Specifically, the annual OC emissions for 2006 and 2007 were 16.2 TPY and 20.0 TPY, respectively.

(6) For emissions unit P002, EI Ceramics exceeded the monthly OC emissions rate of 0.92 ton per month ("TPM") for 23 months between June 2005 and March 2008, in violation of PTI 14-05345 and ORC § 3704.05(C).

(7) For emissions unit P003, the average combustion temperature for the thermal oxidizer, for any 3-hour block of time when emissions unit P003 was in operation, was required to be not more than 50 degrees Fahrenheit below the average temperature during the most recent emissions test that demonstrated the emissions unit was in compliance. Based upon the October 2003 stack test, the average temperature was 1,335 degrees Fahrenheit. For 3 percent of the operating time between October 2003 and March 11, 2008, EI Ceramics failed to operate pursuant to this temperature restriction, in violation of PTI 14-05345 and ORC § 3704.05(C).

(8) For emissions unit P004, the average combustion temperature for the thermal oxidizer, for any 3-hour block of time when emissions unit P004 was in operation, was required to be not more than 50 degrees Fahrenheit below the average temperature during the most recent emissions test that demonstrated the emissions unit was in compliance. Based upon the October 2006 stack test, the average temperature was 1,395 degrees Fahrenheit. For 8.7 percent of the operating time between October 2006 and March 11, 2008, EI Ceramics failed to operate under this temperature restriction, in violation of PTI 14-05702 and ORC § 3704.05(C).

(9) For emissions unit P005, the average combustion temperature for the thermal oxidizer, for any 3-hour block of time when emissions unit P005 was in operation, was not to be less than 1,450 degrees Fahrenheit. For 79 percent of the operating time between June 21, 2005 and March 11, 2008, EI Ceramics failed to keep the average combustion temperature of the thermal oxidizer at no less than 1,450 degrees Fahrenheit, in violation of PTI 14-05702 and ORC § 3704.05(C).

(10) For emissions unit P005, EI Ceramics exceeded the annual OC emissions rate of 11.0 TPY for the years 2006 and 2007, in violation of PTI 14-05702 and ORC § 3704.05(C). Specifically, the annual OC emissions for 2006 and 2007 were 13.0 TPY and 24.4 TPY, respectively.

(11) For emissions unit P005, EI Ceramics exceeded the monthly OC emissions rate of 0.92 TPM for 21 months between May 2006 and March 2008, in violation of PTI 14-05702 and ORC § 3704.05(C).

On May 30, 2008, EI Ceramics installed an interlocking system on all emissions units to prevent operation of the thermal oxidizers if temperatures were to fall below permitted limits. During an inspection on August 19, 2008, HAMCO determined that EI Ceramics was back in compliance with its permits.

On December 16, 2009, Ohio EPA and EI Ceramics held a meeting during which a settlement was reached via the proposed F&Os. A payment plan was provided to EI Ceramics to mitigate concerns about its ability to pay the penalty.

(See the EC Meeting Minutes of November 19, 2009 for additional background information.)

Action: On December 21, 2009, final F&Os were issued to EI Ceramics to resolve the violations. The F&Os require EI Ceramics to pay Ohio EPA a civil penalty of $78,700, of which $15,740 will go to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP. The penalty is to be paid within 30 days after the effective date of the F&Os.

Case Closed

		Dates:	
Case Number:	2845	**EAR**:	07/28/09
Entity:	Blackhawk Automotive Plastics, Inc.	**DWL**:	N/A
Field Office:	HAMCO	**F&Os**:	N/A
Contact:	Tan Tran/Tom Kalman	**Referral**:	N/A
Attorney:	Donald L. Vanterpool	**Dismissal**:	N/A

Background: Blackhawk Automotive Plastics, Inc. ("Blackhawk") owned and operated an automotive parts manufacturing facility located at 4219 US Route 42,

Mason, Warren County, Ohio. It was identified by Ohio EPA as facility ID #1483090101. The Blackhawk facility was a synthetic minor Title V facility that was subject to the annual fee emission report filing and fee payment requirements of OAC Rule 3745-78-02 and ORC § 3745.11, respectively.

On April 9, 2008, Blackhawk permanently shut down operations at the Mason facility. Also, in a fax dated September 9, 2008, Blackhawk reported to the Hamilton County, Department of Environmental Services ("HAMCO") that, on October 22, 2007, the company filed for Chapter 11 bankruptcy protection. Furthermore, Blackhawk also reported that, because of financial issues, the company was put up for sale and was acquired on March 18, 2008; however, the Mason facility was not part of the sale. HAMCO reported on July 3, 2008 that the Mason facility was acquired by Flex-N-Gate.

Blackhawk failed to submit a fee emission report to Ohio EPA for calendar year 2007 by the deadline of April 15, 2008 (extended to June 6, 2008), in violation of OAC Rule 3745-78-02 and ORC § 3704.05(G). A Notice of Violation ("NOV") letter dated October 1, 2008 was sent to Blackhawk by Ohio EPA, in which the required fee emission report was requested to be submitted to Ohio EPA within 30 days of receipt of the NOV letter. There was no response from Blackhawk to the NOV letter.

Also, a fee emission report for calendar year 2008 was not submitted by Blackhawk by the April 15, 2009 deadline, in violation of OAC Rule 3745-78-02 and ORC § 3704.05(G). It was decided by Ohio EPA that a fee emission report for calendar year 2008 would not be pursued due to the company's shutdown status as of the end of that year.

On July 28, 2009, HAMCO submitted an Enforcement Action Request to Central Office to obtain assistance in getting Blackhawk to submit the delinquent fee emission reports.

Action: The DAPC EC has decided to close this case at this time with no further enforcement action. Since Blackhawk ceased operation of the Mason facility in April of 2008, a fee emission report for 2008 from Blackhawk is not required. Only a fee emission report for 2007 is delinquent. This report will not be pursued because Blackhawk essentially is non-existent in Ohio, its estate is in bankruptcy and selling assets to pay creditors, and collection of emission fees from Blackhawk for 2007 is

highly improbable. Also, the amount of the emission fees due for 2007 is likely to be very small (e.g., the fees paid for 2006 were only $670).

Case Closed

		Dates:	
Case Number:	2876	**EAR**:	11/24/09
Entity:	Robert Schiekh	**DWL**:	N/A
Field Office:	Toledo	**F&Os**:	12/22/09 (unil.)
Contact:	Eric Yates/John Paulian	**Referral**:	N/A
Attorney:	Marc Glasgow	**Dismissal**:	N/A

Background: Mr. Robert Schiekh owns property located at 1145 Raymill Road in Holland, Ohio. The property is located in a "restricted area" as defined in Ohio Administrative Code ("OAC") Rule 3745-19-01(J).

On July 5, 6, and 28, 2009, the Springfield Township Fire Department responded to complaints of open burning at Mr. Schiekh's property. On each visit, the Fire Department encountered a large fire at the back of the property consisting of trash and what appeared to be demolition debris. The Fire Department extinguished the fires and informed Mr. Schiekh that the burning of these materials was against Ohio EPA's open burning regulations. Mr. Schiekh informed the Fire Department that he has always burned his waste and will continue to do so. Mr. Schiekh even attempted to throw more debris on the fire as the Fire Department was attempting to extinguish it.

The open burning of trash and demolition debris in a restricted area is prohibited by OAC Rule 3745-19-03. The above-mentioned open burning incidents were in violation of OAC Rule 3745-19-03(A) and ORC § 3704.05(G).

The Fire Department requested that the City of Toledo pursue Mr. Schiekh for enforcement to deter future open burning events.

The City of Toledo sent a NOV to Mr. Schiekh for open burning in a restricted area on August 20, 2009.

Action: On December 22, 2009, unilateral Director's Final Findings and Orders were sent to Mr. Schiekh. The Orders require Mr. Schiekh to pay a civil penalty of $750 to

settle the violations. The penalty is based on a factor of $250 per day per violation from OAC Rule 3745-19-06 for open burning on residential property and three days of open burning.

Case Closed

		Dates:	
Case Number:	2882	**EAR**:	05/19/08
Entity:	Cemex, Inc.	**DWL**:	N/A
Field Office:	RAPCA	**F&Os**:	N/A
Contact:	Patty Porter/Tom Kalman	**Referral**:	12/30/09
Attorney:	Bryan Zima	**Dismissal**:	N/A

Background: Cemex, Inc. ("Cemex") owns and operates a cement manufacturing plant ("facility") located at 3250 Linebaugh Road, Xenia, Greene County, Ohio. Prior to Cemex acquiring the facility in 2000, the facility was owned and operated by Southdown, Inc. The facility is classified as a "major source" for Title V and the Prevention of Significant Deterioration ("PSD") regulations in Ohio Administrative Code ("OAC") Chapters 3745-77 and 3745-31, respectively, and in the mirrored federal regulations (i.e., Part 70 and 40 C.F.R. § 52.21, respectively). At the time of the violations, Ohio EPA did not have a separate PSD program; however, Ohio's authority to implement and enforce the federal PSD program was incorporated into the Ohio SIP. Cement is produced at the facility though the following processes: quarrying of raw materials, the crushing of raw materials, the grinding and mixing of raw materials, the heating of raw materials in a pre-heater kiln to produce clinker, the cooling of clinker in a clinker cooler, and the mixing of clinker with other materials at a finish grinding system. In or about 1996 or 1997, Southdown, Inc., the owner at the time, started a modernization and expansion project of the existing facility. The modernization project was designed to increase clinker production and kiln utilization. It involved a variety of construction activities, including the replacement of the existing finish grinding system with a new finish grinding system; the construction of new facilities for clinker and cement storage; modification of the clinker cooler; and improvements to the kiln, including the installation of a new pre-heater induced draft fan. The project resulted in significant net increases in NO_x and SO_2 emissions and a significant increase in PM and PM_{10} emissions ($PM_{2.5}$ rules were not promulgated at this time; therefore, they are not applicable). These changes are estimated to have increased the potential-to-emit ("PTE") of NO_x from 1,642 tons per year (the preconstruction 1995 and 1996 average actual emissions referred to as "baseline emission rate") to 2,043 tons per year (i.e., 401 tons per year increase in the PTE of NO_x). Similarly, the PTE of SO_2 increased

from 337 tons per year of actual baseline emissions to 420 tons per year. More importantly, based on 2003 reported actual emissions, NO_x and SO_2 actual annual emission rates increased 284 tons and 59 tons, respectively, over the baseline emission rates. The significant increases in PM and PM_{10} emissions were determined to be below the "significant *net* emission increase" thresholds due to decreases associated with replacement of the finishing grinding mill (i.e., PM and PM_{10} emissions increases associated the physical changes netted out of PSD requirements).

Based on the above information, Cemex violated the requirements of the New Source Review ("NSR") and Title V permit programs. Specifically, Cemex violated the requirements of NSR by failing to apply for and obtain a PSD permit and failing to install and operate control equipment capable of achieving and maintaining compliance with the best available control technical ("BACT") emission limitations. Cemex also failed to comply with the Title V permit requirements by not timely submitting an application that included the NSR requirements.

The significant net emission increases in NO_x and SO_2 emissions constitutes a "major modification" within the meaning of the PSD regulations. The PSD regulation prohibits the start of actual construction of a major modification without obtaining a valid PSD permit which states that the source or modification will meet all of requirements of the PSD permit program. This includes, but is not limited to, the requirement to perform an analysis of source impacts, perform air quality modeling and analysis, apply BACT, and allow for meaningful public participation in the process. Cemex failed to apply for and obtain a preconstruction PSD permit prior to the start of construction and failed, among other things, to install and comply with BACT emission limitations as required by the applicable NSR program. The violations occurred from the start of construction (i.e., in or around 1996 or 1997) and are ongoing.

On or about July 1, 1996, Southdown submitted a Title V permit application that did not identify the PSD regulations as applicable requirements. On or about 1998, construction was completed and commencement of operation of the modified facility started. In January 2004, Ohio EPA issued a Title V permit to Cemex. In accordance with the Title V permit regulations, a source required to have a preconstruction PSD permit is required to submit a Title V permit application within twelve months after commencing operation. The Title V regulations also require a source to supplement a pending Title V permit application as necessary to include applicable requirements and to certify the compliance status of all applicable requirements. The requirements of the PSD program are defined as applicable requirements. Cemex failed to timely submit a Title V application or to supplement its pending Title V permit application with the PSD requirements. Similarly, Cemex failed to certify the "non-compliance" status of the modified facility and to include a compliance schedule to return the modified facility to

compliance. These violations occurred from at least 12 months after Cemex commenced operation of the modified facility (i.e., on or about 1999) and is ongoing.

USEPA and Ohio EPA have agreed to pursue these violations in a joint action to be resolved with a consent decree with Cemex. Entry of a consent decree will resolve all civil liabilities for violations of the applicable NSR/PSD regulations and the Title V permit program resulting from the modifications. Additional alleged violations to be contained in the consent decree are for violations of State Implementation Plans ("SIPs") that implement the PSD federal requirements, and the SIP permitting programs for construction and operation of new and modified stationary sources of air pollution.

Negotiations are continuing to finalize a draft Consent Decree. Cemex will be required to: install and operate control equipment to reduce the NO_x and SO_2 emissions generated by the cement kiln; to make process and/or operational changes to reduce the emissions of SO_2 and NO_x; and to install and operate continuous emission monitoring systems ("CEMS") to assure compliance with NO_x and SO_2 BACT limitations. The exact BACT limitation for NOx will be established by a "test-and-set" procedure outlined in the Consent Decree. The following is a short synopsis of the control requirements as they now stand:

- Cemex will be required to install, within 180 days following the effective date of Consent Decree, a Lime Spray Absorber ("LSA") at the alkali bypass stack ("bypass") of the kiln to reduce SO_2 emissions. Beginning 210 days following the effective date of Consent Decree, Cemex will be required to comply with a BACT SO_2 emission limitation expressed in pounds of SO_2 per ton of clinker produced. The limit will be based on a rolling, 30 operating day (i.e., any day that raw materials are fed into the kiln or clinker is produced) period. Although the limit is still being negotiated, the limit is expected to be 1.1 pounds of SO_2 per ton of clinker and includes the emissions from both the main and bypass stacks.

- Cemex will install, certify and operate NO_x and SO_2 CEMs and data acquisition systems at both the main stack and the bypass stack of the kiln within 90 days of the lodging of the Consent Decree. The CEMs will be used to determine the background emissions (i.e., emissions before the installation of the control equipment) and the emissions after the installation of the required control systems.

- Within 180 days following the effective date of the Consent Decree, Cemex is required to complete a "NO_x Emission Reduction Study" and submit a report to EPA identifying NO_x emission reduction measures to be undertaken at the facility prior to the installation of the NO_x control equipment. (See Appendix A of the

draft Consent Decree for more details.) The control measures will be completed in accordance the USEPA approved schedule and are required to be installed prior to installation of NO_x emission control equipment.

- Cemex will be required to install and operate a selective non-catalytic reduction (SNCR) system to reduce NO_x emissions from the main stack of the kiln by no later than July 1, 2011 or 18 months after the effective date of the Consent Decree, whichever date is later. Within 90 operating days following the commencement of operation (i.e., introduction of the reagent) of the SNCR, Cemex will be required to complete the optimization of the SNCR (see Appendix B of the draft Consent Decree for more details) and submit a report to USEPA for approval.

- The first 365 operating days (i.e., the "NO_x Demonstration Period") following approval of the optimization report, Cemex will be required to operate the SNCR, in conjunction with the implemented process and/or operational NO_x emission control measures, with a goal to achieve and maintain a rolling, 30 operating day emission rate of no greater than 1.85 pounds of NO_x per ton of clinker. This limit will be achieved and maintained if 99 percent of the "operating days" during the "NO_x Demonstration Period" meets or is below this emission rate. Thirty days following the NO_x Demonstration Period, Cemex has the option to submit a demonstration, for USEPA's approval, supporting the kiln's inability to achieve and maintain the NO_x "goal" emission limitation and proposing an "Alternate NO_x Emission Limit." The Alternative NO_x Emission Limit cannot exceed 3.11 pounds of NO_x per ton of clinker produced. Under certain specified circumstances, the Consent Decree allows for a longer or shorter NOx Demonstration Period.

- Cemex is also required to install and operate an ammonia injection monitoring system to measure the ammonia injection rate in terms of volumetric flow and converted to pounds per hour as 100% ammonia.

- Cemex is also required to timely submit appropriate permit applications associated with the above requirements and violations identified in the Consent Decree.

The civil penalty is still being negotiated but is expected to be over seven figures with a percentage being paid to Ohio EPA. Twenty percent of Ohio EPA's proportion will be contributed to Ohio EPA's Clean Diesel School Bus Program Fund. At this time, Cemex has not proposed any supplemental environment projects in lieu of payment of a portion of the civil penalty.

Negotiations associated with the Consent Decree have been going on for several months. USEPA has informed DAPC that the draft Consent Decree is very close to being final and could be signed by the company in the near future. It was recommended to the Director that the Attorney General's Office ("AGO") represent Ohio EPA in the enforcement case by filing the necessary documents and being a signatory to the Consent Decree.

Action: On December 30, 2009, a letter signed by the Director was sent to the AGO to refer the case to them for enforcement action. The AGO is requested to file the necessary complaint and motion to intervene in the federal case and to otherwise represent Ohio EPA.

Case Closed

		Dates:	
Case Number:	2879	**EAR**:	12/04/09
Entity:	City of Youngstown Wastewater Treatment Plant	**DWL**:	N/A
Field Office:	112r	**F&Os**:	12/23/09 (prop.)
Contact:	Sherri Swihart	**Referral**:	N/A
Attorney:	Marcus Glasgow	**Dismissal**:	N/A

Background: The City of Youngstown is a municipal corporation that owns the Wastewater Treatment Plant located on 725 Poland Avenue in Youngstown. Chlorine and sulfur dioxide are used in the chlorination process. An initial RMP audit was conducted in April 2004 and eleven deficiencies were discovered during the audit. The deficiencies were corrected in August 2004.

On July 23, 2009, a second five-year audit was conducted at the facility and Ohio EPA, DAPC discovered eight violations of the rules including (a) OAC Rule 3745-104-07 (written management system); (b) OAC Rules 3745-104(C)(1)(d) and (e) (process safety information); (c) OAC Rule 3745-104-24(D)(1)(h) (safety systems); (d) OAC Rule 3745-104-26(C) (certification of operating procedures); (e) OAC Rules 3745-104-27(A) and (B) (training); (f) OAC Rule 3745-104-28(A) (written mechanical integrity program); (g) OAC Rule 3745-104-28(D) (inspections/tests on process equipment); and (h) OAC Rule 3745-104-33 (written employee participation plan). Furthermore, the facility has

not reviewed and resubmitted its RMP by June 21, 2009, in violation of OAC Rule 3745-104-49(B)(1).

A deficiency letter was sent to the facility on August 6, 2009. No information was received and a warning letter was issued on October 15, 2009. Ohio EPA, DAPC contacted the facility via telephone on November 19, 2009 and spoke with the Assistant Superintendent of the plant, but no documentation has been submitted to Ohio EPA.

Action: On December 23, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to the City of Youngstown to attempt an administrative settlement of the violations. The F&Os propose to require the City to (1) pay a civil penalty of $12,405 within 14 days of the effective date of the F&Os, with $2,481 of that amount to be directed to the Clean Diesel School Bus Program Fund, (2) resubmit an RMP to Ohio EPA and USEPA; and (3) within 30 days after the effective date of the F&Os, submit documentation verifying correction of the deficiencies and completion of the second five-year process hazard analysis, and implement the compliant RMP program thereafter.

Case Continued

ACTIONS & MINUTES APPROVED BY: Bob Hodanbosi

Bob Hodanbosi, Chief, DAPC

NEXT MEETING:
January 14, 2010
3:00 p.m.
DAPC Room C

PENDING AIR ENFORCEMENT COMMITTEE CASES

Total Unresolved Cases (85)

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
2698 (112r)	Sugar Creek Packing Co.	N/A	DV/SS	01/03/08	01/31/08
2701 (VC)	City of Dayton, Advanced Wastewater Treatment Facility	RAPCA	BZ/JK	02/19/08	02/19/08
2719 (112r)	Sugar Creek Packing Co. (Dayton)	N/A	DV/SS	03/26/08	04/28/08
2722	Tuscarwas County YMCA, M-Cor Inc., Raeder Construction, et al.	SEDO	BZ/UD	12/20/07	05/05/08
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
2750 (VC)	New Day Farms, LLC / Henning Construction Company	CDO	SF/JP	08/21/08	08/21/08
2752	Allied Corporation (Plant #75)	Akron	MG/JP	01/29/05	09/02/08
2760	Precision Environmental Company	Akron	SF/PP	08/06/08	10/22/08
2775	Selvey's Dirt Works / Famous Supply (asbestos)	NWDO	DV/UD	06/12/08	11/05/08
2777	Sawbrook Steel LLC	HAMCO	BZ/MM	11/13/06	11/07/08
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
2784	Reichert Excavating, Inc. (asbestos)	CDO	SF/EY	06/12/08	12/04/08
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

Updated: 12/31/09

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
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
2811	NewKor, Inc.	Cleve.	SF/EY	01/27/09	03/30/09
2813	ConSun Food Industries, Inc. (Convenient Food Mart #746)	NEDO	DV/JK	08/08/08	03/27/09
2814	Barrett Paving Materials, Inc. **(HPV)**	HAMCO	SF/PP	01/16/08	04/01/09
2815	Royal Sebring Properties, Inc., a.k.a. Zee Tech Warehousing	M-TAPCA	MG/JK	09/17/07	04/02/09
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

Updated: 12/31/09

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2844	Iten Industries, Inc. (Plant 1) **(HPV)**	NEDO	SF/MM	04/18/08	07/28/09
2847	Ultimate Building Systems, Ltd.	HAMCO	SF/FU	04/29/08	08/03/09
2848	Sandusky Dock Corporation	NWDO	BZ/JO	07/27/08	08/06/09
2849	Dean Calhoun/Tim Gearhart (asbestos)	NWDO	DV/MM	03/27/09	08/11/09
2850	Yochman Excavating, Inc. (open burning)	M-TAPCA	MG/PP	03/23/09	08/05/09
2852	AOHW Corporation/Hasper Leggett (asbestos)	M-TAPCA	DV/UD	03/25/09	08/11/09
2853	Valentine Contractors, Inc.	Akron	MG/TT	05/30/08	08/17/09
2854	Ohio Turnpike Commission (Vermillion Valley and Middle Ridge Service Plazas)	NEDO	SF/JK	05/19/09	09/03/09
2855	Lakeside Fuel Mini-Mart	NEDO	DV/JK	02/09/09	09/09/09
2856	Dorothy Jeannine Slessman	NWDO	MG/MM	08/02/09	09/14/09
2857	Pure Gas Incorporated (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
2870	Simon Excavating	NWDO	MG/TT		10/15/09
2871	Ali Mohammad, d.b.a. Marathon Oil 2992	NWDO	SF/JK	05/12/09	10/15/09
2872	Piper Excavation (asbestos and open burning)	NWDO	DV/JK	11/24/08	11/03/09
2873	Hanini Marathon - Superior	Cleve.	MG/EY		11/04/09
2874	Ron Smith	NWDO	SF/		11/09/09
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

Updated: 12/31/09

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
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
~~2882~~	~~CEMEX, Inc.~~	~~RAPCA~~	~~BZ/PP~~		~~12/01/09~~
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: 12/31/09

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

January

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

Total for the month of January = 0

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

February

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

Total for the month of February = 7

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

March

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

Total for the month of March = 5

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

April

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

Total for the month of April = 7

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

May

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

Total for the month of May = 6

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

June

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

Total for the month of June = 5

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

July

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

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

July

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2831	Aleris International, Inc./IMCO Recycling of Ohio, Inc./ Commonwealth Aluminum Concast of Ohio, Inc.	3	SEDO	TK	TK	MG	06/19/09						07/07/09
2712	Cleveland Trencher Company	3	Cleve.	JP	EY	DV	03/24/08						07/14/09

Total for the month of July = 10

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

August

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2761	Cleveland Board of Education (C-check)	3	N/A	JP	JP	DV	10/01/08					08/11/09	
2764	Homer Township Trustees (E-Check)	1	N/A	JP	JP	DV	10/01/08			Closed-NFA	08/13/09		
2787	Airstream, Inc.	3	SWDO	JP	EY	SF	01/09/09					08/11/09	
2788	Gas Express, Inc.	3	Akron	TK	JK	DV	01/27/09						08/12/09
2832	United Tool and Machine	1	SWDO	JP	EY	SF	07/01/09		8/4/09 (DWL)	Closed-NFA	08/13/09		
2704	Gallo's Convenient Market	1	Cleve.	JP	EY	SF	03/05/08			Closed-NFA	08/13/09		
2732 VC	Ohio DNR, Division of Forestry (for open burning permit 07-30)	3	Ports	JP	JP	MG	05/14/08			Closed-NFA	08/14/09		
2807	Hishan Judi, d.b.a. Avon Lake Shell	3	NEDO	TK	JK	MG	03/16/09						08/19/09
2812	Saif Khan, d.b.a. Lakeland Valero	3	NEDO	TK	JK	MG	03/25/09					08/20/09	

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

August

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

Total for the month of August = 10

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

September

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2666	James Conley	1	Akron	JP	EY	BZ	09/25/07			Closed-NFA	09/24/09		
2733	McCarthy Corporation	3	NWDO	TK	UD	SF	06/23/08			Unilateral F&O's		09/22/09	
2754	Lepi Enterprises, Inc. (asbestos)	3	SEDO	TK	TT	DV	09/12/08					09/08/09	
2756	Pioneer Environmental Systems, Inc. (asbestos)	3	NWDO	TK	JK	BZ	10/03/08					09/22/09	
2774	Total Environmental Services, LLC (asbestos)	3	SEDO	TK	TT	SF	10/29/08					09/17/09	
2796	Speedway SuperAmerica, LLC (#3648 and #9975)	3	NEDO	TK	JK	SF	02/24/09					09/22/09	

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

September

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2862	Speedway SuperAmerica, LLC (#1183 and #5110)	3	HAMCO	TK	JK	SF	05/21/09					09/22/09	
2818	Mac Trailer Manufacturing, Inc.	1	Canton	TK	MM	SF	04/07/09		06/17/09 DWL	Closed - NFA	09/24/09		
2838	Englefield, Inc., d.b.a. Ashtabula Duchess	1	NEDO	TK	JK	SF	07/14/09		08/12/09 DWL	Closed - NFA	09/24/09		

Total for the month of September = 9

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

October

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2696	Eramet Marietta, Inc	3	N/A	TK	KJ	BZ	01/18/08					10/07/09	
2837	Flying J. Inc. (Austinburg Truck Stop)	3	NEDO	TK	JK	MG	07/08/09						09/29/09
2710	Stein, Inc.	3	Cleve.	JP	EY	BZ	03/14/08					10/13/09	
2851	Joseph and Marie Eberz	3	Akron	TK	JK	SF	08/10/09					10/19/09	

Total for the month of October = 4

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

November

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2776	Circle K Midwest (GDFs 5204, 5209, 5318 amd 5320)	3	NEDO	TK	JK	MG	11/04/08					11/04/09	
2863	Circle K Midwest (GDFs 0059, 5217, 5557, and 5558)	3	HAMCO	TK	JK	MG	08/01/09					(11/04/09)	
2868	Endres Processing, LLC	3	NWDO	JP	JP	BZ	10/06/09						11/03/09
2618	TRC Industries, Inc.	1	Akron	TK	MM	SF	05/04/07			Closed-NFA	11/19/09		
2657	Environvironmental Affairs Management, Inc.	3	MTAPCA	TK	FU	SF	08/17/07						11/13/09
2679	S. R. Restaurant Corporation, d.b.a. Rascal House Pizza (asbestos)	3	Cleve.	JP	EY	BZ	12/04/07					11/12/09	

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

November

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2748	Great Plains Exploration	3	NEDO	TK	UD	BZ	08/27/08					11/12/09	
2779 (112r)	Sunoco, Inc., Toledo Refinery	3	N/A	TK	KJ	DV	11/14/08					11/12/09	
2843	Bruewer Woodwork Mfg. Co. (FER case)	1	HAMCO	TK	UD	MG	07/28/09			Closed-NFA	11/19/09		

Total for the month of November = 9

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

December

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
2707	Thermo-Rite Manufacturing Co.	3	Akron	TK	UD	MG	03/12/08					12/02/09	
2786	D & R Supply, Inc.	3	NEDO	TK	UD	MG	12/24/08					12/02/09	
2800	Gary Rogers, d.b.a. Rogers Sunoco	3	NEDO	TK	JK	DV	02/24/09						11/30/09
2801	Alton C. Laccheo and Terry Adams, d.b.a. Rusty's Auto Care Shell	3	NEDO	TK	JK	MG	02/25/09						11/30/09
2783	Evonik Degussa Engineered Carbons Corporation (**HPV**)	3	SEDO	TK	TT	MG	11/26/08					12/17/09	
2799	Convenient Food Mart, Inc., No. 391	1	NEDO	TK	JK	SF	02/24/09			Closed-NFA	12/17/09		
2830	Barberton Steel Industries, Inc.	1	Akron	TK	MM	MG	06/16/09			Closed-NFA	12/17/09		

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

December

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
2836	Uni-Mart, Inc. (GDFs #04767, #04768, and #74775)	3	NEDO	TK	JK	DV	07/13/09						12/11/09
2842	Duff Quarry, Inc.	3	SWDO	JP	EY	DV	07/28/09					12/11/09	
2723	Emery Oleochemicals, LLC (**HPV**)	3	HAMCO	TK	PP	DV	05/19/08					12/17/09	
2825	El Ceramics LLC	3	HAMCO	TK	JK	SF	05/08/09					12/21/09	
2713	Quality Ready Mix	3	NWDO	TK	PP	BZ	04/10/08					12/22/09	
2876	Robert Schiekh	3	TDES	JP	EY	MG	11/24/09					12/22/09	
2725	Hosea Project Movers, LLC (asbestos)	3	HAMCO	TK	TT	SF	05/16/08					12/23/09	
2808	Randy Wise	3	NWDO	TK	FU	SF	03/20/09					12/23/09	
2687	Cast-Fab Technologies, Inc.	3	HAMCO	TK	TT	BZ	12/17/07					12/23/09	

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

December

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
2638	Fairport Yachts, LTD, et al.	3	NEDO	TK	PP	MG	07/02/07						12/28/09
2693	Ameriseal & Restoration, LLC	3	Akron	TK	FU	DV	10/26/07					12/30/09	
2816	Republic Engineered Products, Inc. **(HPV)**	3	NEDO	TK	JK	DV	04/16/09					12/30/09	
2708	Dave Sugar Excavating, LLC, et al.	3	SEDO	TK	MM	DV	02/04/08						12/30/09
2691	L & C, Inc., Unique Finishers, Inc., et al.	3	RAPCA	TK	PP	BZ	12/28/07						12/30/09
2882	CEMEX, Inc.	3	RAPCA	TK	PP	BZ	12/01/09						12/30/09
2845	Blackhawk Automotive Plastics, Inc. (FER case)	1	HAMCO	TK	TT	DV	07/28/09			Closed-NFA	12/31/09		

Total for the month of December = 23

Summary of Compliance with Effective Findings and Orders

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Ball & Sons Construction (11/08/96)	Civil penalty: ($1,000.00)		563513	11/22/96	Y	FSC**
Smith Foundry & Machine Co. (12/31/96)	Civil penalty: ($25,000.00)					
		$5,000.00	530404	01/31/97		01/23/97
		$5,000.00	530405	01/31/98		01/23/98
		$5,000.00	530406	01/31/99		01/19/99
		$5,000.00	530407	01/31/00	Y	ACT**
		$5,000.00	541831	01/31/01	Y	ACT**
	AC			01/15/97		N/A*
	IC			06/16/97		N/A*
	CC			08/15/97		N/A*
	Conduct emission tests - submit results			10/15/97		N/A*

* The cupola has been removed. The 12/96 F&O's were revised to reflect the installation of electric induction furnaces rather than controls for the cupola.

Mark Fuerst (02/08/00)	Civil penalty ($10,000.00)					
	to ODNR	$2,000.00	606212	03/08/00	Y	FSC**
	to OEPA	$2,000.00	172154	04/08/00	Y	*
		$2,000.00	172155	05/08/00	Y	FSC**
		$2,000.00	172156	06/08/00	Y	FSC**
		$2,000.00	172157	07/08/00	Y	FSC**

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

American Environmental Abatement Company, Inc. (12/29/00)	Civil penalty: ($2,500)					
	to OEPA	$2,000	206005	01/12/01		01/16/01
	to ODNR	$500	564224	01/29/01	N	
Anco Properties (06/19/01)	Civil penalty: ($23,000)					
	to OEPA	$4,600	224714	09/19/01	Y	FSC**
		$4,600	224715	12/19/01	Y	FSC**
		$4,600	224716	03/19/02	Y	FSC**
		$4,600	224717	06/19/02	Y	FSC**
	to ODNR	$4,600	613129	07/19/01	N	FSC**
Superior Demolition and Excavating (12/28/01)	Civil penalty: ($15,000)					
	to ODNR	$3,000	270395	01/11/02		01/10/02
	to OEPA	$3,000	270396	01/28/02		02/11/02
		$3,000	270397	02/28/02		03/14/02
		$3,000	270398	03/28/02		04/23/02
		$3,000	270399	04/28/02	Y	UNC**

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	Cert. y/n	Completion Date
Richard and Joby Hackett	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*
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	

* CDAQ inspection date

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

* 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.

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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)

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

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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)						

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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

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.

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Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Hydraulic Press Brick (04/28/04)	Civil penalty: ($19,000)				
	$7,000	439209	05/12/04		05/12/04
	$7,000	439210	08/12/04		05/12/04
	Submit P^2 reports		07/28/04		07/26/04
			10/28/04		10/25/04
			01/28/05		01/21/05
			03/28/05		N/A
	Submit cost of P^2 study		04/05/05		
**********					
Kerry's Motor World (05/13/04)	Civil penalty: ($3,000.00)	443684	05/27/04	Y	
**********					
John Dubuk (12/29/04)	Civil penalty: ($10,000.00)				
	$834.00	489979	01/28/05		01/24/05
	$834.00	489980	02/27/05		02/24/05
	$834.00	489981	03/29/05		03/26/05
	$834.00	489982	04/28/05	Y	07/29/06
	$834.00	489983	05/28/05	Y	UNC**
	$834.00	489984	06/27/05	Y	07/29/06
	$834.00	489985	07/27/05	Y	UNC**
	$834.00	489986	08/26/05	Y	UNC**
	$834.00	489987	09/25/05	Y	UNC**
	$834.00	489988	10/25/05	Y	UNC**
	$834.00	489989	11/24/05	Y	UNC**
	$826.00	489990	12/24/05	Y	UNC**
**********					
C & J Contractors (12/21/04)	Civil penalty: ($5,600.00)	479998	01/21/05	Y	*

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

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

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Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Columbus Steel Drum (07/06/05 - Consent Order)	Civil penalty: ($500,000.00)					
	Bus Fund	$25,000	514606	07/31/05		09/20/05
		$25,000	514607	10/01/05		10/12/05
		$25,000	514608	01/01/06		02/08/06
		$25,000	514609	04/01/06		04/21/06
	OEPA	$25,000	514163	07/01/06		07/10/06
		$25,000	514164	10/01/06		10/30/06
		$25,000	514165	01/01/07		01/09/07
		$25,000	514166	04/01/07		04/11/07
		$25,000	514167	07/01/07		08/01/07
		$25,000	514168	10/01/07		10/17/07
		$25,000	514169	01/01/08		03/12/08
		$25,000	514170	04/01/08		04/15/08
		$25,000	514171	07/01/08		07/01/08
		$25,000	514172	10/01/08		10/01/08
		$25,000	514173	01/01/09		04/08/09
		$25,000	514174	04/01/09		07/17/09
		$21,250	514175	07/01/09		10/15/09
		$21,250	726464	09/01/09		12/01/09
		$21,250	726465	11/01/09		
		$21,250	726466	12/01/09		
	Submit PTI app. for K001-K003			08/06/05		05/31/05
	Award contracts		30 days from issuance of PTI			
	IC		60 days from issuance of PTI			07/16/06
	CC		180 days from issuance of PTI			07/13/07
	Perform stack tests		210 days from issuance of PTI			07/03/07
	Submit ITT for P015 & P016			07/20/05		06/07/05
	Perform stack tests			12/27/05		06/23/05
	Submit PTI app. for P015 & P016		30 days after submission of test results			09/22/05
	Award Contracts		30 days from issuance of PTI			*
	IC		60 days from issuance of PTI			*
	CC		120 days from issuance of PTI			*
	Perform stack tests		150 days from issuance of PTI			*
	Perform stack tests for P001, P005, P012 & P013			09/06/05		07/5-7/05

* PTI not issued due to the continued incomplete nature of the PTI application.

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

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

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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

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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

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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

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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 (07/11/07)	Civil penalty: ($1,000)		616290	08/11807	Y	ACT
**********						
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/ <u>interim</u> 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	$3,560.00	645357	07/23/09		
**********						
Christopher Vincent (02/15/08)	Civil penalty: ($1,000)		653134	03/16/08	Y	ACT
**********						
James Brown (03/11/08)	Civil penalty: ($750)		653125	04/11/08	Y	ACT
**********						
Bates Recycling, Inc. (06/04/08)	Civil penalty: ($1,000)		657594	06/18/08	Y	
**********						
Craig Eddy (06/04/08)	Civil penalty: ($750)		657302	07/04/08	Y	
**********						
Warren Ropp (06/02/08)	Civil penalty: ($250)		657293	07/02/08	Y	
**********						
JR's Truck Parts (06/02/08)	Civil penalty: ($500)		657294	07/02/08	Y	
**********						

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Peter Backer (07/01/08)	Civil penalty: ($750)		657790	07/31/08	Y	
W. A. Miller (07/16/08)	Civil penalty: ($1,000)		666334	08/16/08	Y	*

* Partial payment of $350 received 10/20/08 - Potential to Certify.

Lanny Reynolds (07/16/08)	Civil penalty: ($750)		666335	08/16/08	P	
Lance Dudgeon (07/09/08)	Civil penalty: ($500)		659540	08/09/08	Y	
Johnathan Strickland (07/16/08)	Civil penalty: ($2,000)		666331	08/16/08	Y	
Luci, Inc. (07/08/08)	Civil penalty: ($10,000)					
	OEPA	$8,000	659538	08/08/08	Y	
	Bus Fund	$2,000	659539	08/08/08	Y	
Ford Motor Company (07/31/08)	Civil penalty: ($1,400,000)					
	OEPA	$1,120,000	666337	08/31/08		08/18/08
	Bus Fund	$280,000	666338	08/31/08		08/18/08
	Shut down cupola 3 and mold line 7			12/31/08		12/11/08
	Shut down cupola 1 & 2 and mold lines 2 & 3			12/31/10		
Douglas Kehres (08/13/08)	Civil penalty: ($500)		666363	09/13/08	Y	
Great Lakes Crushing Ltd. (10/01/08)	Civil penalty: ($12,000)					
	OEPA	$9,600	686990	10/31/08	Y	09/10/09*
	Bus Fund	$2,400	686991	10/31/08	Y	04/23/09**

* Paid the $9,600 plus $1,095.45 in interest to AGO Revenue Recovery. AGO took $1,069.55 for its collection efforts.
** AGO took $240 of this amount for its collection efforts.

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

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Robert Montgomery, Sr., d.b.a. Montgomery Auto Salvage (10/16/08)	Civil penalty: ($3,000)		688462	11/15/08	Y	
**********						
Re-Gen, Inc. (01/15/09 - Consent Order)	Civil penalty: ($70,000)					
	OEPA	$28,000	709526	02/14/09		02/11/09
		$28,000	709527	01/15/10		
	Bus Fund	$ 7,000	709528	02/14/09		02/11/09
		$ 7,000	709529	01/15/10		
	Submit complete approvable synthetic minor PTIO app.		w/i 60 days of resuming operations			
	Submit FERs for 1999-2007 and pay $8,000 in past emission fees		upon receipt of invoice from OEPA			06/12/09
**********						
Ultimate Industries, Inc. (02/25/09 - Consent Order)	Civil penalty: ($4,200)					
	EPA	$175.00	712529	03/05/09		05/12/09
		$175.00	712530	04/05/09		06/15/09
		$175.00	712531	05/05/09		08/07/09
		$175.00	712532	06/05/09		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		
	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 Cairo	07/01/11 07/01/11		
	Comply w/ acid mist emission rate:		Oregon Cairo	04/02/09 07/01/11		
	Install SO_2 CEMS:		Oregon Cairo	07/01/11 07/01/11		
	Perform compliance tests:		Oregon Cairo	07/01/11 07/01/11		
	Submit O&M Plans:		Oregon Cairo	07/01/11 07/01/11		
	Submit permit applications:		Oregon Cairo	01/01/13 (365 days after acceptance of short-term limit)		
	Submit report re: how compliance will be achieved:		Oregon Cairo	07/01/10 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		
	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		
**********						
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		
	Bus Fund	$1,000	727530	10/17/09		
**********						

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Speedway SuperAmerica, LLC (09/22/09)	Civil penalty: ($35,880)					
	OEPA	$28,704	727238	10/05/09		09/29/09
	Bus Fund	$7,176	727239	10/22/09		09/29/09
	Submit weekly inspection records			11/14/10		
	Submit weekly inspection records			11/14/11		
	Submit results of static leak and A/L ratio tests for 2010			04/14/10 09/14/10		
	Submit results of static leak and A/L ratio tests for 2011			04/14/11 09/14/11		
**********						
Eramet Marietta, Inc. (10/07/09)	Civil penalty: ($30,000)					
	OEPA	$24,000	735687	10/21/09		10/13/09
	Bus Fund	$6,000	735688	11/06/09		10/13/09
	Submit copy of inspection & testing schedule			11/06/09		09/10/09
	Submit documentation of de-registering of formerly covered processes			11/06/09		08/13/09
**********						
Stein, Inc. (10/13/09)	Civil penalty: ($50,000)					
	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 (10/19/09)	Civil penalty: ($500)		735796	11/19/09		
**********						
CertainTeed Corp (10/19/09 - CO)	Civil penalty: ($230,000)					
	OEPA	$184,000	735799	11/19/09		
	Bus Fund	$ 46,000	735800	11/19/09		
	Submit Title V permit appl.			w/i 90 days of issuance of PTI		
	Submit plan for measuring OC content of stone			01/19/10		
	Submit FERs for 1993-1996			04/19/10		
**********						
Aleris International, Inc., et. Al. (10/30/09 - CO)	Civil penalty: ($334,545)			when U.S. Bankruptcy court for District of Delaware decides		
	Install load cells to weigh flux			04/29/10		
	Submit Capture and Collection System Improvement Plan			11/29/09		
	Complete all improvements described in CCSIP			04/29/10		
	Measure fan RPM			01/29/10		
	Measure static pressure of air curtain			01/29/10		
	Perform compliance tests			10/29/10		
	Submit test results			12/29/10		

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Aleris Int'l, Inc., et. Al. (Con't)	Submit HCI PTE analysis			12/29/10		
	Conduct additional compliance tests			03/29/10		
	Comply with all requirements of Subparts A and RRR			09/29/10		
**********						
Circle K Midwest	Civil penalty: ($100,000)					
(GDFs 5204, 5209, 5318, 5320, 5557,	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			03/31/10		
	GDF			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		
**********						

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
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		
**********						
Thermo-Rite Manufacturing Company, Inc.	Civil penalty: ($36,000)					
(12/02/09)	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		
		$1,200	747332	03/01/10		
**********						
D & R Supply, Inc.	Civil penalty: ($20,000)					
(12/02/09)	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
**********						
Duff Quarry, Inc.	Civil penalty: ($5,000)		747347	01/11/10		12/07/09
(12/11/09)						
**********						
Evonik Degussa Engineered Carbons Corp.	Civil penalty: ($34,310)					
(12/17/09)	OEPA	$27,448		01/17/10		
	Bus Fund	$ 6,862		01/14/10		
**********						

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Emery Oleochemicals, LLC	Civil penalty: ($57,400)					
(12/17/09)	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		
**********						
EI Ceramics, LLC	Civil penalty: ($78,700)					
(12/21/09)	OEPA	$62,960		01/21/10		12/23/09
	Bus Fund	$15,740		01/21/10		12/23/09
**********						
Quality Ready Mix, Inc.	Civil penalty: ($15,000)					
(12/22/09)	OEPA	$12,000		01/05/10		
	Bus Fund	$ 3,000		01/05/10		
**********						
Robert Schiekh	Civil penalty: ($750)			01/22/10		
(12/22/09)						
**********						
D. Todd Hosea, d.b.a. Hosea	Civil penalty: ($22,000)					
Project Movers	OEPA	$4,400		03/23/10		
(12/23/09)		$4,400		06/23/10		
		$4,400		09/23/10		
		$4,400		12/23/10		
	Bus Fund	$4,400		01/23/10		
**********						
Randy Wise	Civil penalty: ($250)			01/23/10		
(12/23/09)						
**********						
Cast-Fab Technologies, Inc.	Civil penalty: ($80,000)					
(12/23/09)	OEPA	$64,000		01/23/10		12/29/09
	Bus Fund	$16,000		01/23/10		12/29/09
**********						
Ameriseal & Restoration, LLC	Civil penalty: ($6,700)					
(12/30/09)	OEPA	$ 860		01/15/10		
		$2,200		02/15/10		
		$2,300		03/15/10		
	Bus Fund	$1,340		01/15/10		
**********						
Republic Engineered Products, Inc.	Civil penalty: ($30,600)					
(12/30/09)	OEPA	$24,480		02/15/10		
	Bus Fund	$ 6,120		02/15/10		
**********						

Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Mark A. Mirich, d.b.a.	Civil penalty: ($25,000)					
All Demolition	OEPA	$800		02/15/10		
(12/28/09 - CO)		$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		
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		$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		
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		$200		11/15/11		
		$200		12/15/11		
		$200		01/15/12		
		$200		02/15/12		

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Facility Name	Milestone or Requirement*		Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Tinkler Construction, Co.	Civil penalty: ($14,500)					
(12/30/09 - CO)	OEPA	$11,600		01/30/10		
	Bus Fund	$ 2,900		01/30/10		

****

** 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

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

DEC 2 8 2009

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

Re: Referral of Fairport Yachts, Ltd., Tartan Yachts, C&C Yachts, Novis Marine (Composites), Ltd., and Grand River Investments

Dear Mr. Cordray:

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

Thank you for your assistance in this matter. Any questions you may have should be directed to Patty Porter of the Division of Air Pollution Control's Enforcement Section (644-3695). She, as well as Tom Kalman, Manager of the Division of Air Pollution Control's Enforcement Section (644-3598), should be kept apprised of the status of this matter and any action taken with regard to it. Please also coordinate all negotiations and any resolution of this case with Jim Orlemann, Assistant Chief, SIP Development and Enforcement, and Enforcement Coordinator of the Division of Air Pollution Control and Marcus Glasgow of the Agency's Legal Office.

Sincerely,

Chris Korleski
Director

CK:PP:pp

Enclosures

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Marcus Glasgow, Legal Office
Patty Porter, DAPC
Nancy Meli/Tim Fischer, NEDO

Inter-Office Communication

To:	Chris Korleski, Director
From:	Jim Orlemann, DAPC Enforcement Coordinator and Marcus Glasgow, Staff Attorney, Legal Office
Subject:	Recommendation to refer Fairport Yachts, Ltd., Tartan Yachts, C&C Yachts, Novis Marine (Composites), Ltd., and Grand River Investments to the Office of the Attorney General
Date:	December 9, 2009

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

The DAPC Enforcement Committee is recommending to you that the air enforcement case involving the companies named in the above subject line ("Fairport") be referred to the Attorney General's Office ("AGO") for violations of ORC § 3704.05(D) and (G) for the failure to provide information requested by the agency in accordance with ORC § 3704.03(I) and OAC Rule 3745-15-03(A).

A detailed synopsis of the matter is contained in the attached inter-office communication to Dale Vitale of the AGO and in the attached Director's letter of September 24, 2009, wherein the agency requested the submission of pertinent information needed to determine applicable air pollution control regulations and compliance status. We are recommending referral to the AGO because Fairport failed to provide the information needed to determine applicability and compliance of the Title V permit program, NESHAP regulation and other air regulations. Additionally, the case is being referred because the facility has changed its name frequently during the course of the enforcement investigation, making it difficult to determine the culpable parties, the information they should have, and the violations that they committed.

We request that you sign and return the attached referral letter. If you have any questions, please contact one of us.

MG/JO/PP/pp

xc: Tom Kalman

Attachments

Ohio EPA
Division of Air Pollution Control

INTER-OFFICE COMMUNICATION

TO: Dale Vitale, Chief, Environmental Enforcement Section, AGO

FROM: Marcus Glasgow, Legal Office, and Jim Orlemann, Enforcement Coordinator, DAPC

SUBJECT: Notes concerning the referral to the Office of the Attorney General of the enforcement case with Fairport Yachts, Ltd., Tartan Yachts, C&C Yachts, Novis Marine (Composites) Ltd., Grand River Investments, and any other appropriate party (referred herein as "Fairport")

DATE: December 9, 2009

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

The Director has referred Fairport to your office. This enforcement case is being referred to the AGO because Fairport failed to provide all of the requested information necessary to completely determine the regulatory applicability of, and compliance with, air pollution control rules, permits and laws. The information that is available documents that certain violations of monitoring, record-keeping, reporting and permitting requirements have occurred over several years. We expect that the additional information will document additional significant violations. The following is a brief summary of the case.

SYNOPSIS

On numerous occasions, Ohio EPA's Northeast District Office ("NEDO") requested that Fairport Yachts, Ltd. provide Ohio EPA with information regarding the emissions of air pollutants associated with its facility located at 1920 Fairport Nursery Road in Fairport Harbor, Lake County. The information is necessary to determine if the facility is a "major source" of hazardous air pollutants ("HAPs") and subject to the Title V permit program and the federal NESHAP for boat manufacturing (40 CFR, Subpart VVVV—National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing). In the past, Fairport Yachts, Ltd. has failed to provide complete responses to numerous information requests made by the agency.

In a letter dated September 24, 2009, the Director of Ohio EPA required, through the authority of ORC § 3704.03(I) and OAC Rule 3745-15-03(A), Fairport Yachts, Ltd. to provide detailed technical information needed to determine if the facility was a major source for HAPs. The information was requested to be submitted by October 15, 2009. Ohio EPA has not received the requested information. The failure to timely respond to the request is a violation of ORC §§ 3704.05(D) and (G).

On November 6, 2009, Ohio EPA's attorney, Marcus Glasgow, contacted Bill Ross, the owner of Fairport Yachts, Ltd. Later that day, Mr. Ross sent an e-mail stating that Fairport Yachts, Ltd. ceased operations in June 2004. The e-mail also stated that Novis Marine, Ltd. had purchased the assets through a third party sale and that Novis had operated the facility at the same location in Fairport Harbor until last year when it too ceased operations. He further said that there was a potential for a new company to again start up operations at the facility but that no transactions had occurred to date.

Information contained in a website article regarding Tartan Yachts' history (www.goodoldboat.com), dated November/December 2003, indicates that in 2003, Fairport Yachts, Ltd. acquired a company named High Tech Composites, an Ohio-based company that manufactured carbon masts, and renamed the company Novis Marine, Ltd.

Fairport Yachts, Ltd. and Novis Marine, Ltd. both manufactured the same lines of luxury sailboats, called Tartan Yachts and C&C Yachts, at the facility. Based on Tartan Yachts and C&C Yacht's websites, both of their boats are still being built and sold. Both websites list the Fairport Harbor address and state that the warranties for yachts delivered after November 1, 2003 are warranted by Tartan Yachts or C&C Yachts, which are divisions of Fairport Yachts, Ltd. (with the same address).

A Star Beacon news article, dated September 24, 2007, states that Novis Marine, Ltd. recently began construction of high-end sailboats at its manufacturing facility located at 341 Harbor Street, Conneaut, Ohio. This location appears to have been the location where Novis Marine, Ltd. produced its carbon filled masts for Tartan Yachts and C&C Yachts' sailboats. This suggests that the Fairport Yacht, Ltd.'s facility may have changed locations or expanded the manufacturing of the yachts to a new location.

A Boating Industry article dated January 25, 2008, indicates that Novis Marine, Ltd. entered into an agreement for the sale of its assets to Grand River Investments, a private equity group based in Cleveland. The article also stated that Novis Marine, Ltd. will offer a 60-foot model and possibly a 57-foot model of its Tartan line of cruising boats and will continue to upgrade the C&C line. It further says that Tim Jackett, Novis Marine, Ltd.'s chief operating officer and chief designer, will continue with the company in his current role and that Bill Ross (the owner of Fairport Yachts, Ltd. and possibly the CEO of Novis Marine, Ltd.) will remain with the company during the transition. Tim Jackett also was employed by Fairport Yachts, Ltd.

In a February 13, 2009, news release, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) announced that it had proposed a $130,200 fine against Novis Marine, Ltd. for alleged willful, serious and repeat violations of federal workplace safety standards. OSHA's investigation opened in August 2008. The location of the investigation is not indicated.

Fairport Yachts, Ltd., Novis Marine, Ltd. and Grand River Investments are listed as active businesses with the Ohio Secretary of State.

Ohio EPA has not been able to obtain the information needed to determine the compliance and regulatory requirements for this yacht manufacturer, or the status, location and name of the current manufacturer.

Attached is the September 24, 2009, Director's information request letter along with excerpts from the above-referenced articles.

There are no multimedia violations associated with this case.

CIVIL PENALTIES

A civil penalty for this case has not been calculated ~~do~~ due to the lack of pertinent information to establish other significant violations that may have occurred. A penalty will be calculate at the time the necessary information is obtained from the appropriate parties.

RECOMMENDATION

We recommend that the AGO pursue obtaining the information itemized in the September 24, 2009 letter from the Director, whether directly from the parties or by obtaining a preliminary injunction through the court. Once the information is obtained, Ohio EPA will determine what injunctive relief is needed and what additional violations occurred, and will compute a civil penalty for the AGO's use. The AGO can then pursue settlement of the violations through a consent order or through the court ~~is~~ if necessary.

xc: Tom Kalman

MG/PP/pp

Attachments

FYI, I called Fairport Yachts Dec. 21, 2009.
The receptionist said they both sell & manufacture the boats there, in Fairport Harbor. I think she answered the phone w/ "C & C Yachts." B.Z. 12/21/09

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Columbus, OH 43216-1049

SEP 2 4 2009

CERTIFIED MAIL

Mr. Bill Ross, President/Owner
Fairport Yachts, Ltd.
1920 Fairport-Nursery Road
Painesville, Ohio 44077

Re: Director's request for information regarding air contaminant emissions and the facility's classification

Dear Mr. Ross:

The purpose of this letter is to request information regarding Fairport Yachts, Ltd.'s actual and potential air pollutant emissions and other related information associated with its facility located at 1920 Fairport-Nursery Road, Painesville, Ohio. The information is being requested in accordance with the authority provided in ORC § 3704.03(I) and Ohio Administrative Code ("OAC") Rule 3745-15-03(A). ORC § 3704.03(I) gives the Director the authority to require the person responsible for an air contaminant source to maintain records and file periodic reports containing information such as the rate, duration, composition of air contaminant emissions and/or any other pertinent information the Director prescribes or determines necessary. Similarly, OAC Rule 3745-15-03(A) states that the Director may require the keeping and periodic submission of information on air contaminants and/or emissions from any or all potential sources for any reasonable purpose the Director determines necessary. OAC Rule 3745-15-03(A) further states that such information shall be recorded, compiled, and submitted in a manner and form prescribed by the Director. Failure to submit any or all of the information requested in accordance with ORC § 3704.03(I) and/or OAC Rule 3745-15-03(A) is a violation of ORC §§ 3704.05(D) and (G), respectively, and can subject the person(s) to civil penalties and other injunctive relief, including, but not limited to, the assessment of $25,000 per day for each violation.

On numerous occasions, including February 6, 2002, June 19, 2003, November 18, 2004, April 5, 2005, May 31, 2005, June 14, 2005, November 3, 2005, May 15 and 16, 2007, Ohio EPA's Northeast District Office has asked for information regarding the emissions of air pollutants associated with the facility. Fairport Yachts, Ltd. has provided incomplete

responses to the requests; therefore, the Director is requiring, through the authority of ORC § 3704.03(I) and OAC Rule 3745-15-03(A), Fairport Yachts, Ltd. to submit the following information and documentation by October 15, 2009:

1. The facility-wide emission calculations for the actual and the potential to emit (PTE) of volatile organic compounds (VOC), single and combined hazardous air pollutants (HAPs) for each of the years 1998 to June 2009. HAP emission estimates should include, but not be limited to, the emission rates of styrene, methyl methacrylate (MMA), methylene chloride (dichloromethane), toluene, xylenes, n-hexanes, methyl isobutyl ketone (MIBK), and methyl chloroform (1,1,1-trichloroethane). The calculations must include HAP and VOC emissions resulting from the use of resins; gel coats; curing, hardening and cross link agents; solvents; adhesives; foam injection and surface coatings used in the manufacturing and cleanup processes as well as any other activity at the facility that might result in the release of any air pollution. A description and the individual calculations of each process and application used in open (i.e., gel coat, skin coat and additional layers) and closed (i.e., infusion molding, resin transfer molding) molding processes must encompass the facility-wide calculations (i.e., the summations of the individual and combined HAPs and VOC emission rates). Annual summations of the pollutants should be expressed in tons of emissions per rolling 12-month period and should consist of the previous individual 12-month summations. If monthly data is not available to estimate the "rolling 12-month periods," calendar years may be used with approval from Ohio EPA.

2. In addition to the summation of the rolling 12-month period emission estimates, please submit short-term emission rates expressed in pounds per hour and per day of individual and combination HAP and VOC. The shortest averaging periods as possible should be used on the short-term emission estimates; however, the averaging period should not exceed a monthly average. Any assumptions used to estimate the emission rates should be well explained and justified. If emission factors are used to estimate emissions, please note that emission factors are functions of the styrene/MMA content, process and type of application (i.e., hand layup, mechanical atomized and non-atomized; filament, gel coat, etc.); therefore, include justification and MSDS to support the use of the emission factors as well as records of the material used or purchased.

3. The process descriptions and emission estimates should indicate the date of installation of any air contaminant source and/or any changes made to a process as well as the effect the change and/or installation had on the emission rates of the air pollutants.

4. Please provide a detailed description and the reason for the 70,000 square feet expansion of the facility and the effect, if any, it had on the facility's PTE.

5. Please provide a detailed description of, and the reason for, the use of epoxy resin. Provide emissions calculations associated with use of the epoxies, catalyzers and/or any additives used in this process. Please provide all MSDS and justifications for the use of any emission factors or provide evidence, such as statements from the epoxy suppliers, that this process does not emit any air pollutant. Also, include any air pollutant emissions associated with the epoxy heat chamber. What effect, if any, did the use of epoxy have on the facility's annual production rate and/or the use of other resins?

6. If inherent physical limitations are used to limit the PTE of the facility for any particular year, please provide a detailed description of the limitation and the influence it has on the PTE.

7. If annual and/or short-term emission limitations contained in the facility's PTIs are used to show that the facility is a minor source, please provide complete and adequate records to demonstrate that the limitations were not exceeded and/or that the major source applicability thresholds on rolling 12-month periods were not exceeded.

8. Explain the liner process and any emissions associated with this process. After October 30, 2003, were all decks and liners produced in the closed mold infusion molding process? How were they produced prior to the use of the infusion molding process? Provide detailed calculations, in the manner outlined above in item number 1, of the emissions associated with the deck and liner production from 1998 to June 2009. Separate calculations should be included to represent the operation of the infusion molding process.

9. What date did the facility start the "lacquer" operations? Has this process been modified? If so, provide the date, a description and the emissions associated with the modification. Please include the emission calculations which should reflect both the actual and PTE for a rolling 12-month period.

10. What emissions factors were used to determine that the facility exceeded the 8 pounds per hour and/or the 40 pounds per day organic compound emission limitations contained in the facility's PTIs? Were different emission factors used for the different operations, applications, and/or styrene/VOC contents? Please

provide all available copies of the calculations for all dates that limitations were exceeded. Also, provide documentation and calculations if compliance could have been achieved with a longer averaging time than the averaging times expressed in the permit.

11. When were the traditional-atomizer and the "non-atomizer" guns installed? Provide a description of the usage of the chopper guns, the amounts and types of resins and additives generally used in the process. Provide detailed emission calculations, as outlined above in item number 1, associated with each gun. The emission estimates should be from the installation date of each chopper gun to June 2009 and should address any process and/or application that was/were influenced by the installation.

12. Please submit the annual amount, type and VOC and HAP contents of the resins, catalysts and solvents used or purchased since 1998 to June 2009 and indicate the amount (i.e., percentage) used in each process and application.

13. On August 22, 2003, January 30, 2004 and February 23, 2005 you submitted estimated emissions of styrene/OC/HAPs for the years 1998 through 2002, 2003, and 2004, respectively. And, in a June 11, 2008 letter, a purchasing summary of organic compounds and coatings, adhesives, paints, paint preps and varnishes which contain organic compounds, was submitted with an implied commitment for an upcoming potential to emit calculation. Please submit the detailed calculations used to derive these annual emission estimates. Did these estimates include emissions associated with cleanup, storage, the use of tooling resin and gel coat, adhesive and coating operations, etc.? Provide separate calculations for each pollutant (i.e., single and combined HAPs, VOC), each process and each application. If an improper emissions factor or assumption was used in these calculations, please provide a "corrected" estimate as well as the original calculation.

14. On what date was the resin transfer mold (RTM) installed? Were the emissions associated with close molding included in the annual emission calculations? If so, what emission factors were used? In what process is the RTM used?

Fairport Yachts, Ltd. can use the options contained in 40 CFR Section 63.5686 to demonstrate that the facility is a minor source. 40 CFR 63.5686 provides two options that can be used to demonstrate that the facility is not a major source. One option is an emission option where you demonstrate that your facility does not emit or have the potential to emit, considering federal enforceable limitations, 10 tons per year or more of a

single HAP or 25 tons or more of a combination of HAPs (this is similar to the method outlined above in the requested information). The demonstration must include the facility's PTE of emissions from the boat manufacturing facility and all other sources that are collocated and under common ownership or control of the boat manufacturing facility.

40 CFR Section 63.5686 also provides a material consumption option that fiberglass boat manufacturers may use to demonstrate they are minor sources if their facilities meet one of the following and maintain the required records:

1. If the facility is primarily a fiberglass boat manufacturing facility, it can demonstrate that it uses less than 50 tons per rolling 12-month period of all combined polyester and vinyl ester based resin and gel coats (including tooling and production resins and gel coats, and clear gel coats) and that 90 percent of all HAP emissions (including all other source categories) originate from the fiberglass boat manufacturing materials; or

2. If the facility is a fiberglass boat manufacturing facility, it can demonstrate that the boat manufacturing materials consumed per rolling 12-month period contained a total of less than 5 tons of any single HAP or less than 12.5 tons of all combined HAPs, and that at least 90 percent of total HAP emissions at the facility originate from the boat manufacturing materials.

If one of the material options outlined in 40 CFR Section 63.5686 is selected to demonstrate that the facility is a not a major source under 40 CFR, Part 63, Subpart VVVV, the facility must keep records that demonstrate the 90 percent criterion is met.

The options contained in 40 CFR Section 63. 5686 may also be selected to demonstrate that the facility is a minor source for the applicability of the Title V operating permit program, provided the emission calculations and supporting records include the years from 1998 to the present and that the emissions of the criteria pollutants are also addressed. If one of the material consumption options is selected, the Director may request additional information and documentation in lieu of the information requested above.

The requested information should be sent to the following offices:

Ohio EPA Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087-1969
Attention: Nancy Meli

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
50 West Town Street, Suite700
Columbus, Ohio 43216-1049
Attention: Patty Porter

If you fail to provide the requested documents within the time frame requested, Ohio EPA will consider alternative enforcement options, including the referral of the violations to the Ohio Attorney General's Office for legal action.

The submission of the requested information does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in ORC Chapter 3704. The Ohio EPA will decide whether to pursue penalties regarding violations at a later date.

If you have any questions concerning this letter, please contact Nancy Meli of Ohio EPA's Northeast District Office at (330) 963-1239 or Patty Porter of the Ohio EPA, Division of Air Pollution Control at (614) 644-3695.

Your prompt attention to this matter will be appreciated.

Sincerely,

Chris Korleski
Director

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Patty Porter, DAPC
Marcus Glasgow, Legal Office
Nancy Meli/Tony Becker/Keith Riley, NEDO

CK:PP:pp

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Market Outlook

Novis Marine gets new ownership

Boating Industry
Friday January 25, 2008

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FAIRPORT HARBOR, Ohio – Novis Marine Ltd. has entered into a definitive agreement for the sale of its assets and those of several affiliated companies to Grand River Investments, a private equity group based in Cleveland, Novis said in a press release this week.

Novis Marine manufactures the Tartan and C&C sailboat brands, and also builds carbon-fiber yacht spars under the Novis Spars brand.

Advertisement

"It's time to turn my attention to some other opportunities," said Bill Ross, who led the company for nearly 20 years.

Grand River Investments appointed J. Hunter Banbury to the position of president and CEO of the company. In anticipation of closing, Banbury has already assumed those roles at Novis Marine.

The Grand River group plans to make a multimillion dollar investment into Novis's product line and marketing programs.

"This company is ready for both product line expansion and dramatic growth in international sales," Banbury said.

Novis Marine will offer a 60-foot model and possibly a 57-foot model of its Tartan line of cruising boats. The company will continue upgrades to the C&C line and explore the open-class racing market.

The company also plans to expand its presence in the carbon fiber component market, providing spars to other boatbuilders and creating new products.

Tim Jackett, Novis Marine's chief operating officer and chief designer, will continue with the company in his current role. Ross will remain with the company during the transition.

Banbury holds MBA and law degrees from Cornell University. Previously, he was a senior executive for a private equity firm that specialized in complex manufacturing, serving as CEO in several of that company's holdings. The firm grew from $300 million to $3 billion in assets during his tenure.

Under Ross's leadership, Novis Marine became the first U.S. production boat manufacturer to employ epoxy-based laminates throughout its entire product line, and the first to build its own carbon fiber spars. The company also rebuilt the C&C yacht brand.

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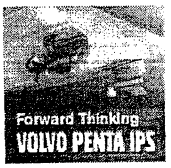

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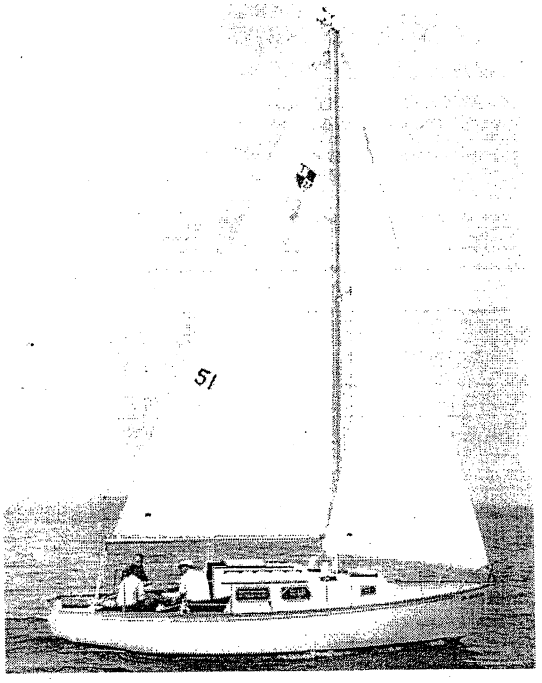


Tartan Yachts

With a foundation in the 1940s, this company continues to produce fine yachts to this day

by Dan Spurr

THE COMPANY WE KNOW TODAY AS Tartan Yachts has undergone numerous changes over the years, transforming itself through mergers, bankruptcies, and new owners into a still-vibrant builder that remains surprisingly true to its origins. Where most builders of larger sailboats are situated on the East and West Coasts, Tartan is the offspring of two small builders of one-designs in northern Ohio. Through thick and thin, the company has stayed in the Midwest on the shore of the Grand River, though circumstances have pushed it around the county a few times.

Douglass & McLeod

Ray McLeod Sr. was born in 1908 in Wickliffe, Ohio, a small town east of Cleveland on the shores of Lake Erie. At the age of 33, while working as a painting contractor, he succumbed to what one must presume was the call of the sea and bought a small company named the Grand River Boat Works. It was located in nearby Richmond, though the town's name was later changed to Grand River because there were two Richmonds in Ohio. (For whatever reasons, this didn't seem to present the same problem for the two Wickliffes in the state.) Apparently it wasn't a full-time income because Ray continued to manage his painting business. Nevertheless, he found time to build several 35- to 40-foot wooden boats for commercial fishing — back when the Great Lakes had a commercial fishing business. But his bread and butter was the usual marina fare of hauling and storing boats, maintenance, upgrades, and repair work.

At the same time, Gordon K. (Sandy) Douglass, formerly a portrait painter, was building small wooden boats at his shop in Vermilion, another small town on the lake, about 30 miles west of Cleveland. The boat models the Scotsman was building included the International 14, which he raced, and the 17-foot Thistle, introduced in 1946, which he had designed himself. But he wasn't having an easy time financially, in part because he lacked the space to increase production.

Ray McLeod and well-known Cleveland yachtsman C. Richard Newpher both belonged to the Mentor Harbor Yacht Club. Richard knew Sandy Douglass as well and that he was struggling. One day he suggested to Ray that he and Sandy consider joining forces. Ultimately, they did, forming Douglass & McLeod, Inc. In addition to the Thistle and International 14, they began building the Great Lakes 21 (now called the International 21 after a group of local sailors modified the design). Douglass & McLeod contracted U.S. Molded Shapes of Grand Rapids, Michigan, to build the hulls out of molded plywood. These were shipped to Grand River for completion. Sandy continued to race, and in 1951

The Tartan 27, above left, was the first fiberglass boat designed by Sparkman & Stephens. More than 700 were sold. Above, Ray McLeod Sr. (left) and Ray McLeod Jr., in 1961.

he won the Thistle national championship.

Ray's son, Ray Jr., says, "There was a great deal of interest in the Thistle from the beginning. The first one was built from stripped planking to keep the weight to a minimum and later was destroyed once the plug was finished and the first molded mahogany plywood hulls were built. No. 1 Thistle of the molded plywood construction is still active, but it wasn't actually among the first batch of plywood boats. That is because the number was reserved until there were a few boats built and sold to get the company going." (This was in dramatic contrast to the more common practice in later years of giving the first boat a much higher number, like 201, to make buyers believe that 200 had already been sold.)

Sandy and Ray both took to the road to try selling the boats, particularly the Thistle, demonstrating how easily it could be trailered behind the family automobile. The mahogany parts were prefabricated in Douglass & McLeod's woodworking shop, as were the Sitka spruce masts, booms, and spinnaker poles. The boats were assembled in a Quonset hut set up to handle the increased production.

In 1951, Sandy designed a second boat, the 20-foot Highlander, which he saw as a logical sequel to the Thistle. She was larger and more comfortable and had a deck. She was also more expensive but, the partners hoped, still affordable when compared to larger cabin boats.

By 1959 the partners employed 15 workmen and were producing about 125 boats annually, delivering them throughout the U.S. and to Brazil, Mexico, the Bahamas, and the Philippines.

Bill Seifert

Rod Stephens, on left, expert rigger and brother of designer Olin Stephens, and Charlie Britton, on right, head of Tartan Marine, discuss details of hull No. 1 of the Tartan 37, introduced in 1968.

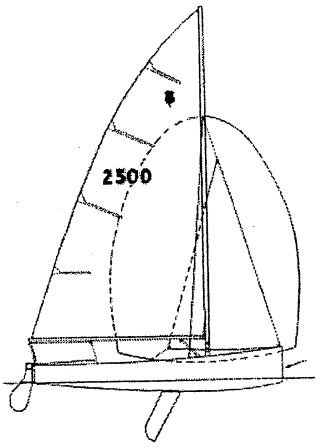
Ray Jr. began working for his father from the git-go. He says, "My service to the company started with sweeping floors in 1941 and continues to date. I came on full-time in 1953 after a couple of years of college and service. In 1957 we purchased the minor interest of Gordon Douglass and continued onward." Sandy Douglass went on to design and build the popular 19-foot Flying Scot one-design racer.

Enter Charlie Britton

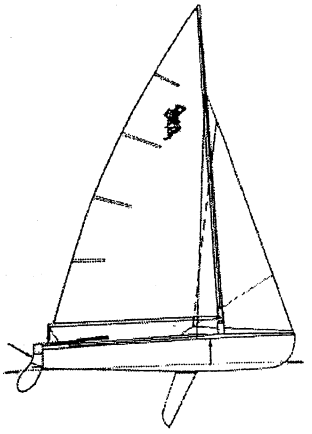
While not at the leading edge of the movement from wood to fiberglass, Douglass & McLeod saw the change coming and readied itself. "In 1960 and 1961," Ray Jr. says, "we were experimenting with the use of fiberglass and started another company known as Douglass & McLeod Plastic Corporation in a partnership with Charles Britton, which led us to our first larger auxiliary, the Sparkman & Stephens-designed Tartan 27."

Charlie Britton was born in Bratenahl, Ohio, and attended Trinity College in Hartford, Connecticut, graduating in 1955. Between 1956 and 1958 he served as an operations officer and navigator aboard a destroyer in the U.S. Navy. He was stationed in Japan and wrote many letters home to his parents who, according to former Tartan employee Bill Seifert, published 150 of the letters in book form.

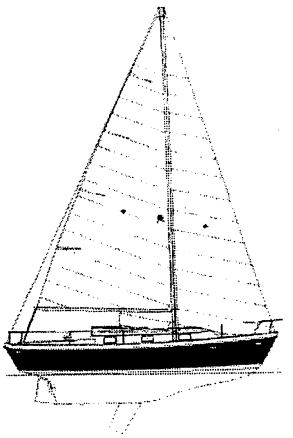
Bill says the family was wealthy. This probably explains why Charlie was able to commission the building of a 42-foot Phil Rhodes-designed yawl to sail home to the States from Japan upon discharge. His plans went awry when he was instead discharged in San Diego. Determined to get his boat, he flew back a year later, in 1959. Bill says the shipyard had since gone out of business, and Charlie was forced to "steal" his partially completed boat. In any case, he and some friends sailed across the Indian and Atlantic oceans to New York, traveling 22,000 miles in 204 days, with stops at Okinawa,



Thistle



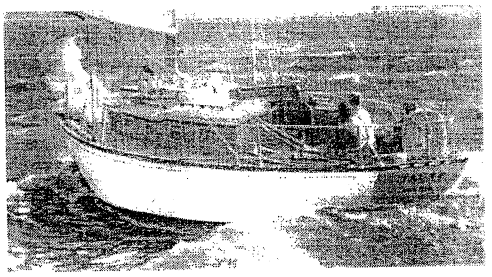
Highlander



Tartan 27

Manila, Zamboanga, Borneo, Bali, Christmas Island, Cocos Island, Mauritius, Angola, Ascension Island, and the West Indies.

Charlie was a first-rate sailor, winning Class D of the SORC (Southern Ocean Racing Conference) in 1968, Class B of the Bermuda Race in 1976, and Class C of the Super Mac.



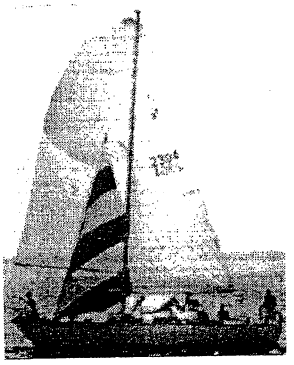
Black Watch

The shift to auxiliaries

Douglass & McLeod's first auxiliary, as noted, was the Tartan 27. It was designed in 1960 by the prestigious New York City firm of Sparkman & Stephens and was their first design for fiberglass. Bill Shaw, who later became chief designer and chief operating officer of Pearson Yachts in Portsmouth, Rhode Island, worked for Sparkman & Stephens at the time and was responsible for the Tartan 27 project. Bill Seifert says the boat was originally supposed to be 32 feet long, but that Charlie Britton "shortened the boat on the loft floor to eliminate the overhangs." (Bill Shaw says he has no recollection of this.)

In any case, the handsome centerboarder was an instant hit. Available as a sloop or yawl, she had teak cockpit coamings, hatch trim, and handrails. Built of fiberglass woven roving and mat, the hull was ¾-inch thick at the keel, ⅝ inch at the turn of the bilge, and 5/16 inch at the sheer. Ray and Charlie thought they would build just a dozen, but by the time the production run ended, more than 700 had been built. Base price in 1975 was $11,750.

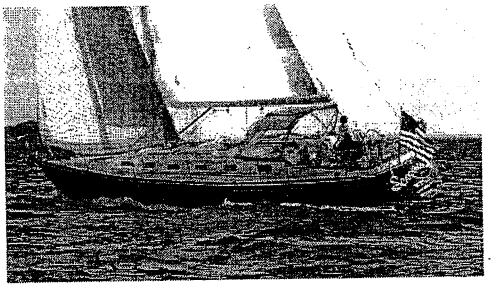
The Tartan 27 was followed in 1966 by the Black Watch, a 37-footer also available as a sloop (618 square feet) or yawl (683 square feet). She has a 25-foot 6-inch waterline with a 10-foot 6-inch beam and draws just 3 feet 10 inches with the centerboard up. Displacement is 15,700 pounds. The hull is fiberglass, but the deck and cabin are teak. In the 1970s Mimi and Ken Dyer circumnavigated in a Black Watch and wrote about their experiences in a series of articles for *Sail* magazine.



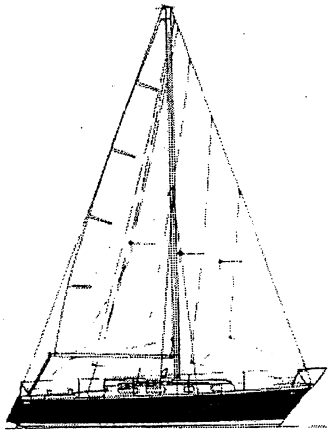
Tartan 34

Long before the day of the in-house designer, Douglass & McLeod and others commissioned the best names in naval architecture they could afford. "There is always a certain risk to investing in an original boat design," Ray Jr. told his local newspaper in 1967. "We minimize this by hiring top-notch marine architects. Although we may have an idea of what we want, if they disagree, we always take their advice."

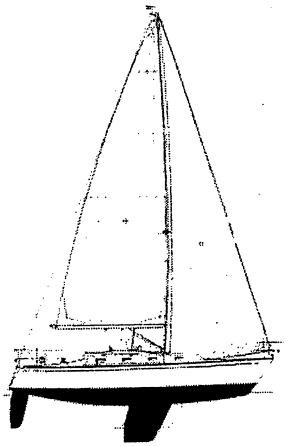
The Black Watch designed by Ted Hood would be the last time the company worked with a designer other than Sparkman & Stephens for many years. The Tartan 34 began a long string of Sparkman & Stephens designs. The waterline of the 34 is nearly as long as the Black Watch, at 25 feet 0 inches. She displaces 11,700 pounds, has a 10-foot 2-inch beam, and draws 8 feet 4 inches with the centerboard down. So all three auxiliaries from Douglass & McLeod were centerboarders, which besides being great for gunkholing, were popular during the era of the CCA (Cruising Club of America) rating rule. The yawl rig, which was offered on two of these three designs, was also popu-



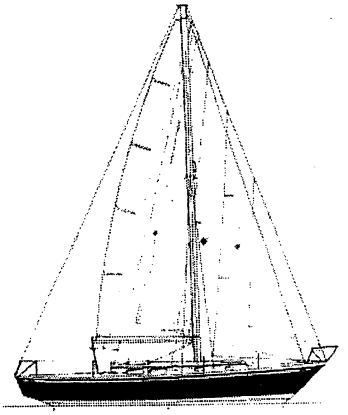
Tartan 4100



Tartan 30



Tartan 31 Piper



Tartan 34

lar at the time. The Tartan 34 came along just as the IOR (International Offshore Rule) was gaining popularity.

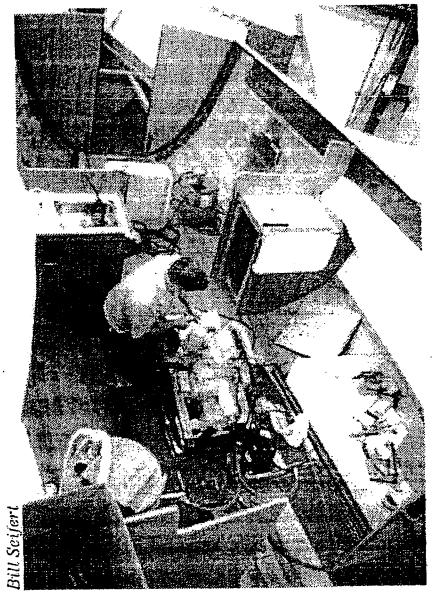
Exit Douglass & McLeod

An unfortunate chain of events left the joint boatbuilding operation firmly in the hands of Charlie Britton.

"In January 1971," Ray McLeod Jr. says, "while displaying at the New York Boat Show (our 26th consecutive year), we had the misfortune of the Douglass & McLeod Plastic Corporation being totally destroyed by fire. The following year, Ray McLeod Sr. died of cancer."

At this juncture, Douglass & McLeod Plastic Corporation was sold to Charlie Britton, though Ray Jr. retained ownership of Douglass & McLeod, Inc., a separate company. Under this name he continued to build the Thistle (which at that time numbered more than 3,000), the Highlander, and a new Sparkman & Stephens design called the Douglass & McLeod 22, with a bubble or blister cabin, similar to those drawn by Bill Tripp in his 33-foot Medalist and many Columbia designs.

"With the start of the small boat decline," Ray Jr. says, "and after a 15-year battle with a local union, it was time for a major change. The repair business, winter storage, retail store, and my surveying business were enough to make a viable small operation. We also added a marina." The change was to cease building boats, though one detects a considerable degree of regret on Ray Jr.'s part. Indeed, during the decades following Douglass & McLeod's departure from boatbuilding, its letterhead still reads: "Originators of Thistle and Highlander Class Sail Boats and D&M Auxiliary."



Bill Seifert

A worker installs an engine in a Tartan Ten, around 1979. The Tartan Ten helped to popularize one-design keelboats.

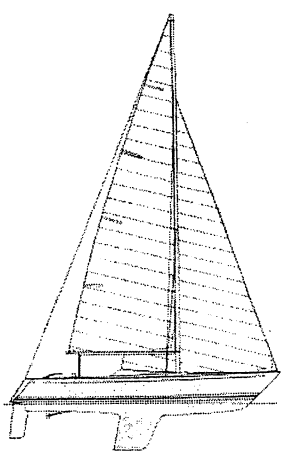
"In 1951, Sandy designed a second boat, the 20-foot Highlander, which he saw as a logical sequel to the Thistle."

The next Tartan was the extremely successful 30, launched in July 1970. Second only to the Tartan 27 in terms of numbers built, it totaled 602 by the time production ended in 1979. By now, Douglass & McLeod Plastic Corporation also had a plant in Hamlet, North Carolina. Combined with the Grand River, Ohio, facility, the company was finishing a Tartan 27 every 3.5 days, two Tartan 30s a week, and one Black Watch every month.

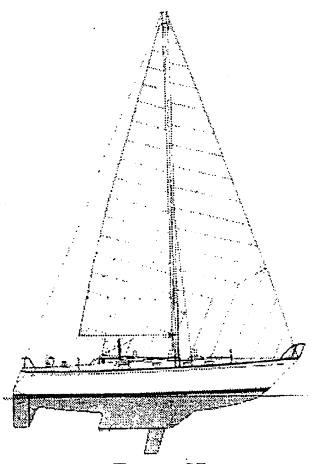
"To create boats of the same length and design in the old method, out of wood and using handwork," president Charlie Britton told an interviewer in 1970, "would make the cost prohibitive for many people. We'd be back to the old $1,000-per-foot formula. Thus, a 30-footer like our new Tartan 30 would run about $30,000 if made the old way, instead of the $17,700 we get for our boat. Fiberglass enables more people to enjoy auxiliary sailing boats for racing or just cruising, people who would otherwise have to limit their choice to a smaller boat."

About the same time as the Tartan 30, Charlie introduced the Tartan 26 and the next year the Tartan 41, 46, and 48. Charlie stretched the 41 by 3 feet and sold approximately seven or eight Tartan 44s. One, called *Twain*, he raced himself in the SORC. One of his loyal customers, James Dawson of Cleveland, testifies to Charlie's seriousness as a racer. "Charlie never carried much to eat or drink aboard his boats," James says, adding, "When asked why, he indicated 'it made the crew want to get there sooner.' "

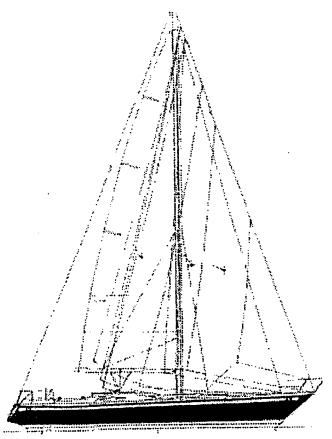
By 1978, when it introduced the Tartan Ten, the company had been renamed Tartan Marine. The 33-foot Tartan Ten established several trends — the idea of an offshore one-design class and a metric name — both of which spread to other companies in



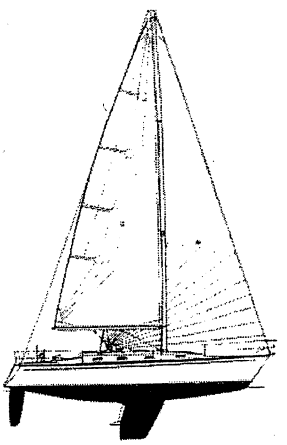
Tartan Ten



Tartan 37



Tartan 41



Tartan 3500

the years that followed and continue to this day. Base price of the Tartan Ten in 1979 was $21,500. By then 210 had been built. She was fast off the wind and capable of double-digit speeds. Compared to most other Tartans, she was lightly built, however, and a number of problems plagued owners, including the bending of the hollow rudderstock, hull flex, poor mast support, and the molded fiberglass interior pan coming adrift from the hull. Nevertheless, she was elected to the American Sailboat Hall of Fame.

Another very successful boat for the company, the Tartan 37, came along in 1976. Production lasted 12 years. She is a good all-around performer with the classic good looks of a Sparkman & Stephens design. During the 1970s, the company produced 10 different classic models (see sidebar on Page 15).

"By 1978, when it introduced the Tartan Ten, the company had been renamed Tartan Marine."

The next generation

In 1983 Charlie sold Tartan Marine to John Richards and Jim Briggs. These two introduced the Tartan 28, 31, 34-2, 37-2, 40, and 41-2. They then sold the company to an outfit called the Baltic Holding Corp., which changed the name to NavStar Marine. Despite healthy sales figures, however, the company ran up a huge debt, and in 1990 Polk Industries of Winter Haven, Florida, a holding company owned by Mike Monastra, bought Tartan. Dealerships were opened in Holland, Great Britain, and Japan. In 1993, the company reported that 25 percent of its business was in exports. Today, with Polk principal Bill Roth actively involved, it is called Fairport Yachts, builders of Tartan Yachts and C&C Yachts.

Designer Tim Jackett, who had

Stories about Charlie

Bill Seifert, author of *Offshore Sailing: 200 Essential Passagemaking Tips*, worked for Tartan Marine for many years. He was a member of the informal "Tartan Racing Team," headed, of course, by Charlie Britton. Here are several anecdotes, in Bill's own words, that paint a picture of Charlie.

Spinnaker takedown

On *Tandem*, Charlie's big boat I used to race on, the spinnaker afterguy led to a coffee grinder winch just aft of the main mast. This position gave the grinders and tailers a good view of the chute. This was the mid-1970s, and Kevlar rope had not been invented. Afterguys were 7 x 19 wire, the only material having low enough stretch for close reaching. Our spinnakers were 71 feet at the luff and 40 feet wide. On a St. Pete-Ft. Lauderdale race we were close reaching with a 2.2-ounce starcut to Rebecca Shoals one afternoon when a line squall closed with us. Our general battle plan for line squalls was to ride them for a few minutes to determine their duration before shortening canvas. (We did not have radar to check the intensity of squalls.)

This one turned out to be especially vicious, and *Tandem* took a major knockdown, putting the upper spreaders in the water. With the spinnaker sheet winch under water, we could not ease the sheet, and the strong spinnaker full of water was holding the boat down. I was close to the afterguy coffee grinder and happened to look at the mast, not up, but horizontally. The middle of the mast had what appeared to be a 4-foot bow. I waved to the crew in the cockpit to keep down and unwound the afterguy from the grinder. The 108-foot-long afterguy zinged through its blocks and spinnaker pole end. *Tandem* came upright rapidly. The flailing wire afterguy cut the chute into three pieces like a sword. After we took down the remains, Charlie questioned my actions. A sanitized version is: "Seif, why did you run the afterguy?"

My reply was: "Charlie, I was looking at the mast and thought it was about to bust. We have five spinnakers, but only one mast." Charlie huffed and told the crew to put any dry portions of the spinnaker in his bunk, as he wanted the world's most expensive bed sheet.

Engine education

Charlie was a superb sailor. I once watched him sail his boat into a very congested harbor with a 12-Meter-sized spinnaker up, drop it, and coast the 30-ton boat into her dock without turning on the engine. Oh, yes, he was alone!

Sails were Charlie's thing. One rainy Saturday, Charlie and I were onboard *Tandem*, which was brand new.

Charlie said, "OK, Seif, I suppose you ought to tell me what I need to know about the engine."

"Sure, Charlie," I answered, opening up the engine hatch so we could see the 4-108 Westerbeke diesel. "What do you want to know?"

"Let's start with where the spark plugs are," Charlie answered. I knew then this was going to be a long day.

Bagging it

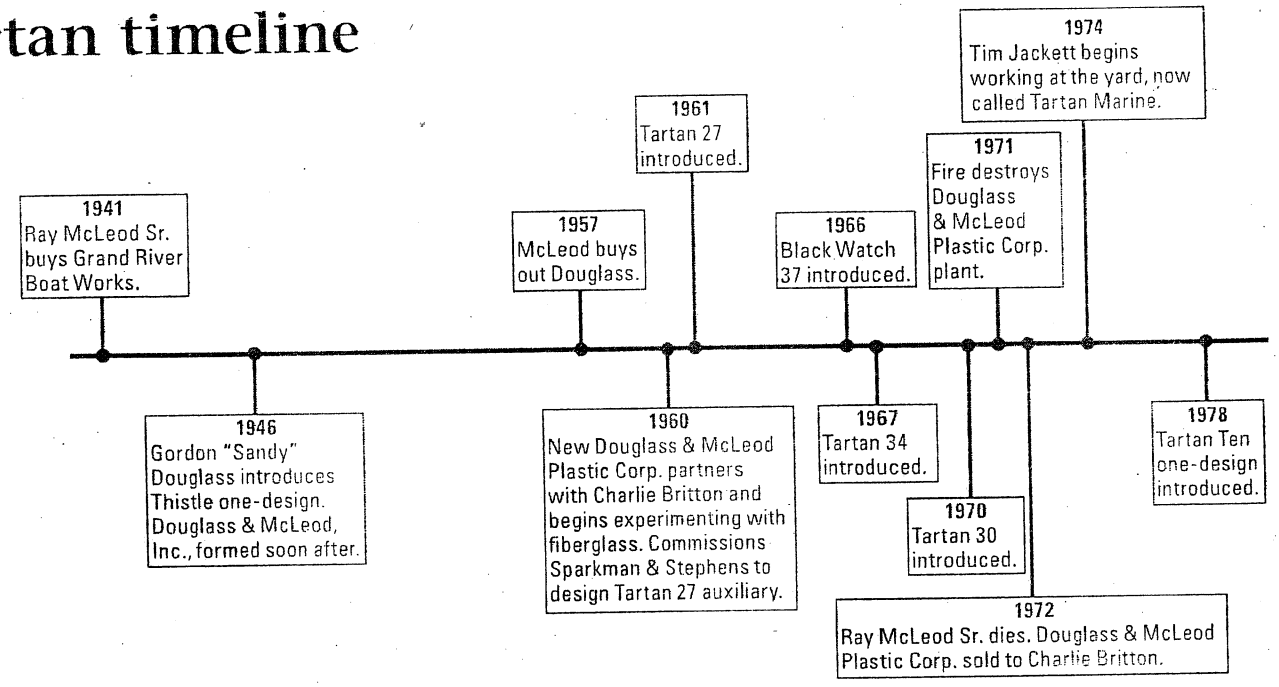
On the Tartan Racing Team's Tartan 44, we were very weight conscious. Dazey came out with the Seal-a-Meal baggers, and I bought one to be able to pre-cook food, then toss it in a closed aluminum pressure cooker filled with sea water to warm. My first cooking experiment was to make an omelet at home. Since the eggs were cooked from the outside in, the omelet was very good, and I found that with careful timing I could make them still a little runny in the middle. I told Charlie about the bagger and he liked the idea of more time on the rail and less time below cooking for my hind end.

Charlie came into my office a few days later and said, "Seif, I'm not so sure about your bagger. I tried it the other night, and I just made a mess."

"What did you do?" I asked.

"Well, I took a bread wrapper, dropped in a couple of eggs, then put it in boiling water. The bag melted and spoiled one of Linda's pans, and now she's mad at me, so I blamed it on you."

Tartan timeline



updated the 28 and 31 with the so-called Piper series, became vice-president and general manager in addition to his duties as chief designer. The Piper models were essentially sailaway versions of the earlier models, though other changes were made, too. In the case of the 31, the old Scheel keel was dropped in favor of Tim Jackett's Beaver Tail fin, and the interior layout was revised. The port pilot berth was eliminated in favor of cabinets and shelves. And the port quarter berth was expanded to a double with the nav station edged forward and angled to provide better berth access.

Tim is essentially a Tartan "lifer," having started out there in 1974 working summers while attending the Cleveland Institute of Art. "I thought I wanted to be a painter," he says, "but then I found myself drawing boats." He'd learned to sail on his parents' old wooden boat, which they kept at Mentor Lagoons on Lake Erie, and later a C&C Shark. Tim soon found himself racing with Charlie Britton and the rest of the so-called "Tartan Racing Team," but it was not to last. Tim says Charlie's interest "just sort of fizzled," owing in part to the demands of family.

In 1977 Tim set up his own small shop to build several small MORC (Midget Ocean Racing Club) boats but then was offered full-time employment at Tartan. His first project was the Tartan Ten, helping in-house designer Art Rand draw the deck, interior, and component parts. At that time, Sparkman & Stephens designed the hulls, rigs, and appendages, and Art Rand did the rest. When Art retired, Tim assumed that role.

After Charlie sold out to John Richards and Jim Briggs, he formed Britton Yachts, building a Doug Peterson design. Tim worked on the project with him, but only three boats were built. Fortunately, Tim never left Tartan.

By 1985 John Richards saw that Tim was ready to draw an entire boat. So beginning with the Tartan 31, all design work moved fully in-house.

Between 1991 and 2003, Tim also designed the 3500, 37-2, 3700, 3800, 4100, 4400 LS, and 4600 LS. While the bigger boats are essentially cruising boats, the smaller models retain sprightly performance reminiscent of their Sparkman & Stephens forebears. The old 1970s Tartan 30 was popular with club racers, earning the reputation for Tartan as a builder of dual-purpose boats. It's doubtful anyone would race a Tartan 4100 or 4600 in anything but a cruising boat rendezvous such as one of the transoceanic rallies like the ARC (Atlantic Rally for Cruisers) or Caribbean 1500, but the 3500 and 3700, with the same Beaver Tail fin as the 31 Piper, generous sailplans, spade rud-

Resources for Tartan Sailors

Tartan Yachts/Fairport Marine Corp.
888-330-3484
<http://www.tartanyachts.com>

Chesapeake Bay Tartan Sailing Club
<http://www.cbtsc.com/>

Lake Erie Tartan Sailors (LETS)
<http://lets.tartanowners.org>

Tartan Owners of New England (TONE)
<http://tone.tartanowners.org/home.htm>

Tartan Ten Class Association
<http://www.tten.com>

Tartan 27
<http://www.tartan27owners.com>

Tartan 3800 Owners Group
<http://www.tartan3800.com>

Tartan 30 Page
<http://hometown.aol.com/T30SAILOR/indexold.html>

Tartan 34 Owners Association
<http://t34.tartanowners.org/>

Tartan 37 Sailing Association
<http://www.mindspring.com/~sailing_fool/index.html>

Tartan 40
<http://www.tartanowners.org/community.htm>

Tartan Email Discussion Group
<http://members.sailnet.com/resources/links/list/index-new.cfm?id=tartan>

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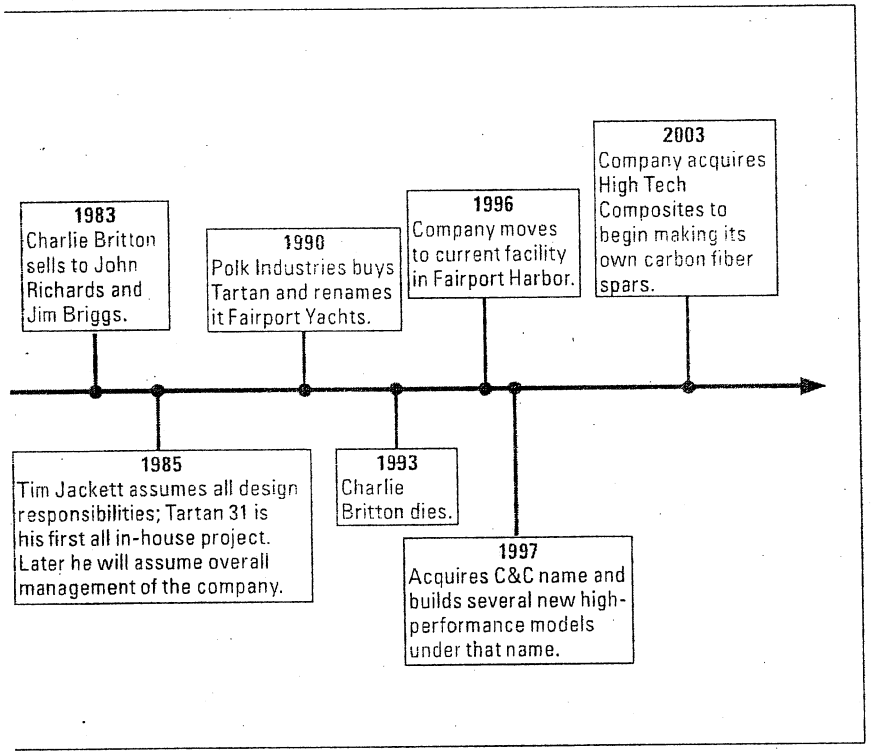
<http://www.tartanowners.org>



der, and moderate displacement, are successfully club-raced.

Tartan is one of but a few production sailboat builders left (Sabre is the other notable one) building mostly wooden interiors with bulkheads and furniture tabbed to the hull and deck (the others, like Morris Yachts and Hinckley, build semi-custom boats). Fiberglass pans are used judiciously and, where employed, they are fully tabbed to the hull. In certain applications, structural adhesives are used. For a few years, Tartan used vinylester resins to help minimize the risk of osmotic blistering. Now it uses SP Systems epoxy exclusively, which is stronger than polyester, does not release dangerous and costly-to-capture VOCs (volatile organic compounds), and helps block moisture intrusion as well. Hull-deck joints are still through-bolted, with 3M 5200 as a sealant. Balsa coring is used in the decks, but most hulls are solid fiberglass. Fabrics include unidirectional E glass, Kevlar, and carbon fiber. Gelcoats are NPG/isophthalic. The hulls are vacuum bagged and post cured, which means the ambient temperature is elevated to more than 100°F for optimal curing of the resin.

In 1996 the company moved to its present facility in Fairport Harbor, Ohio, and in 1997 Tartan showed its health by acquiring the name and rights to C&C, the once famous Canadian line of racing sailboats. Tartan did not get any molds, however. Tim Jackett drew the lines to three new C&C models: the 32-foot C&C 99, 36-foot C&C Express 110, and the 40-foot C&C 121 (see "The History of C&C Yachts," *Good Old Boat*, September 2002). Hulls and decks are cored with Core-Cell foam. With fiberglass pan interiors, little wood, and a stronger emphasis on light weight — and hence performance — the C&C line is a nice counterpoint to the more cruiser-oriented Tartan designs.

Today Tartan Yachts employs about 100 persons, building something less than 100 boats a year. A dealer network covering both coasts was a critical component in the company's rebound. In 2003 the company acquired High Tech Composites, an Ohio-based manufacturer of carbon fiber masts, now renamed Novis. Beginning in 2004, all Tartans will come standard with carbon rigs.

Ray McLeod Jr. continued for many years to run his Douglass & McLeod yard and marina business in Grand River. Charlie Britton died of cancer in May 1993. He spent the last years of his life on a dairy farm in Ohio. He was active in charitable organizations around Cleveland. A man who truly loved to sail, one of his last projects was building a wooden Snipe. And these days Tim Jackett is spending less time designing and more time managing. He still draws the "big lines," but he has several designer/engineers to work out the details. Tartan is a survivor thanks to these three.

Some of the information in this article, as well as photos, first appeared in Dan Spurr's book, *Heart of Glass: Fiberglass Boats and the Men Who Made Them*, published by International Marine in 2000. A soft cover edition will be released in spring 2004. –***Ed.***

Further reading

Heart of Glass: Fiberglass Boats and the Men Who Made Them, by Dan Spurr (2000, International Marine).
<http://www.goodoldboat.com/bookshelf.html>
or call 763-420-8923

Classic Tartan models

Model	Years	No. Built	Designer
26	1971-73	73	Tom Norton
27	1961-76	648	S&S
27-2	1976-79	64	S&S
28	1984-90	136	S&S
28 Piper	1990-94	[1]	S&S
30	1972-79	602	S&S
3000	1981-88	97	S&S
31	1987-91	146	Tim Jackett
3100	1991-96	[2]	Tim Jackett
Ten	1978-89	379	S&S
33	1979-84	215[3]	S&S
34C	1967-78	525	S&S
34-2	1984-89	110	S&S
Black Watch 37	1967-71	32[4]	Ted Hood
37C	1976-89	486	S&S
37-2	1988-93	60	Tim Jackett
38	1976-89	[5]	S&S
3800	1994-99	44	Tim Jackett
40	1984-89	72	S&S
TOCK[6]	1976-77	30	S&S
41/43/44	1972-76	84	S&S
41-2	1989-90	8	S&S
42	1980-84	34	S&S
46/48	1972-74	8	S&S

[1] Combined Tartan 28/Piper production run noted.
[2] Combined Tartan 31/3100 production run noted.
[3] Tartan 33R Masthead Racing Version — 14 produced.
[4] Black Watch model category includes both Black Watch (hulls 1-15) with stepped mahogany coach and D&M Classic 37 (hulls 16-32) with straight fiberglass coach.
[5] The 38 was simply a deep keel 37 racing by Charlie Britton.
[6] TOCK is shorthand for the little-known 40-foot Tartan Offshore Cruising Ketch.
S&S = Sparkman & Stephens.

Table courtesy of www.tartanowners.org website

WARRANTY INQUIRIES

All warranty requests must be submitted through your dealer.

This is a copy of the Tartan Yachts warranty for boats built after January 1st, 2004. The warranty on your particular vessel may vary and should be reviewed to ensure accuracy.

The warranty on your particular vessel may vary and should be reviewed to ensure accuracy.

LIMITED WARRANTY The Tartan Commitment.

You have purchased one of the finest sailboats built in the world today. And it is supported by one of the finest warranties in the industry. This excellent warranty coverage demonstrates not only our confidence in our Tartan sailboats, but also our commitment to every Tartan customer. We're dedicated to ensuring that you enjoy exceptional quality, dependability and peace of mind throughout your ownership experience.

To further demonstrate our commitment to our Tartan owners' satisfaction, we may establish a special policy adjustment to pay for specific repairs that are no longer covered by warranty. When we establish such a policy adjustment, we mail details to all applicable owners on record. That's why it is important to send in the Warranty Registration Form supplied to you with your purchase documents, and to notify us when you change your address, or if you have purchased your Tartan from a previous owner.

You made a wise decision to purchase a Tartan. Your yacht delivers world-class luxury and performance, along with an unparalleled commitment from Tartan to ensuring your satisfaction. You can be confident, as we are, that you'll enjoy owning your Tartan as much as you enjoy sailing it.

This warranty is effective for all Tartan yachts delivered after November 1, 2003.

Who is the Warrantor:

The warrantor for these limited warranties is Tartan Yachts, a division of Fairport Yachts, Ltd., 1920 Fairport Nursery Rd., Fairport Harbor, OH 44077.

Which Vessels Are Covered

This warranty applies to all new Tartan sailboats delivered to owners after November 1, 2003, and normally operated in the United States, U.S. territories and Canada.

The owner must submit a fully completed Warranty Registration Form through an authorized Tartan dealer within thirty (30) days of the purchase of the vessel.

It is important that this form be submitted on a timely basis to Tartan Yachts. Failure to do so will invalidate the warranty.

Is The Warranty Transferable:

Warranty coverage is transferable to the first subsequent owner of the vessel upon application to Tartan Yachts and upon the following conditions:

The vessel must be surveyed by a surveyor who is a member of the Society of Accredited Marine Surveyors, and a copy provided to Tartan Yachts. The survey must disclose that the hull is in good condition, free of damage or defects. The vessel must be listed for sale with, or be accepted as a trade-in by, an authorized dealer for Fairport Yachts products.

A completed Request For Transfer of Warranty form, available from Tartan dealers, must be completed and forwarded to Tartan Yachts for approval together with the marine survey. The transferee is the first transferee after the original owner. The vessel is not, or has not been, in charter service or used for commercial purposes.

The remaining term of the Structural Warranty and the Blister Warranty will be adjusted according to the following schedule:

Years of Original Warranty Period Remaining	Years of Adjusted Warranty Period Remaining
11-14	5
6 - 10	3
1 - 5	1

When Warranty Begins:

The warranty period begins on the earlier of (a) the first date the vessel is delivered to an ultimate purchaser, leased, or used as a demonstrator by the dealer, or (b) the first day of the thirteenth month after the vessel's manufacture.

Repairs Made at No Charge

Repairs and adjustments [illegible] these warranties are made at no charge for parts and labor.

Parts Replacement:

Any needed parts replacement will be made using new or remanufactured parts. The decision whether a part should be repaired or replaced will be made by Tartan Yachts. Remanufactured parts must meet all factory standards for safety, quality and reliability.

Limitations:

The performance of necessary repairs and adjustments is the exclusive remedy under these warranties or any implied warranties. Tartan Yachts does not authorize any person to create for it any other obligation or liability in connection with this vessel.

Any implied warranty of merchantability or fitness for a particular purpose is limited to the duration of these written warranties. Some states do not allow restrictions on how long an implied warranty lasts, so this limitation may not apply to you.

What Is Covered And How Long:

Our warranty program consists of three warranties. Coverage under [illegible] is subject to the exceptions indicated under "What Is Not Covered" set forth below.

Basic Warranty. This warranty covers repairs and adjustments needed to correct defects in materials or workmanship of any part supplied by Tartan Yachts. Coverage is for twelve (12) months.

Structural Warranty. This warranty covers repairs and adjustments needed to correct defects in chain plates, mast step and floor timbers. Coverage is for fifteen (15) years.

Blister Warranty. This warranty covers repairs and adjustments needed to correct defects resulting from osmotic blistering in below-the-water gel coat surfaces of the hull. This warranty does not apply to keels, rudders and other painted surfaces. Coverage is for fifteen (15) years.

What Is Not Covered

This warranty does not cover damage or failures resulting directly or indirectly from any of the following:

Abuse or negligence

Improper commissioning, repairs or storage.

Alteration, tampering, or rigging changes including installation of non-genuine Tartan parts or accessories.

Lack of or improper maintenance.

Installation of non-genuine Tartan parts.

Environmental conditions such as airborne chemicals, salt, hail, and lightning.

Fire, accidents or theft.

Paints, varnishes, gel coats, chrome-plated or anodized finishes and other surface coatings other than as specifically described in the Blister Warranty.

Wooden parts that have warped, expanded or contracted.

Other Exclusions:

This warranty also does not cover the following:

Any charter or commercial use of the vessel invalidates this warranty. A special warranty is available from Tartan Yachts for these uses through Tartan's Warranty & Service Department.

Components, equipment and accessories not manufactured by Tartan Yachts, including but not limited to engines, pumps, batteries, deck hardware, rigging, heating/cooling units or systems, refrigeration, plumbing and electronic equipment. These items, although installed by Tartan or an authorized dealer, may be covered in warranties provided by the original manufacturer.

Any vessel which has been the subject of a lightning strike or grounding, unless the owner provides Tartan Yachts with a marine survey from a surveyor who is a member of the Society of Accredited Marine Surveyors that demonstrates that the vessel is in good and seaworthy condition in the sole discretion of Tartan Yachts.

Damage or repairs resulting from osmotic blistering as described in the [illegible] warranty if gel coat has been [illegible] sandblasted or subjected to abrasives, or damaged by impact or contact.

Cracks in finishes which might appear at the hull-to-keel ballast joint. These are normal and should not be considered as evidence of structural damage, defective workmanship or material. Leaks at stanchions, chain plates, and genoa track in the course of normal operation of the boat. These are normal and considered part of normal maintenance.

Any vessel that has been the subject of rigging changes without the written approval of Tartan Yachts.

Noise, vibration, cosmetic conditions and other deterioration caused by normal wear and tear. Any vessel for which the original factory-assigned hull identification number cannot be determined.

Any vessel that has ever been issued a "salvage" title or similar title under any state's law; or has ever been declared a "total loss" or equivalent by a financial institution or insurer, such as by payment for a claim in lieu of repairs because the cost of repairs exceeded the cash value of the vehicle.

Incidental or consequential damages associated with a vessel's failure, such damages include but are not limited to inconvenience; the cost of transportation telephone calls and lodging, the loss of personal or commercial property, or the loss of pay or revenue.

Disclaimer of Extra Expenses and Damages:

The performance of necessary repairs and adjustments is the exclusive remedy under this warranty or any implied warranty. Tartan Yachts does not authorize any person to create for it any other obligation or liability in connection with this vessel. Tartan Yachts shall not be liable for incidental or consequential damages resulting from breach or this written warranty or any implied warranty.

Any implied warranty of merchantability or fitness for a particular purpose is limited to the duration of this written warranty, except in states where this limitation is not allowed.

How to Present Claims:

Warranty claims must be presented through an authorized Tartan dealer within 30 days after discovery of the defect.

ALL CLAIMS MUST FIRST RECEIVE A WRITTEN OR EMAIL WARRANTY AUTHORIZATION FROM TARTAN YACHTS BEFORE ANY WORK CAN BE PERFORMED. NO WORK PERFORMED BEFORE THE AUTHORIZATION IS PROVIDED WILL BE APPROVED FOR PAYMENT.

All information requested by Tartan must be provided by the owner on a timely basis including, but not limited to, pictures of the damaged area or components, quotations or estimates of repair costs, and all other information concerning the cause of, and costs associated with the repair of, the damaged area. Tartan reserves the right to select the yard or contractor to perform the repairs, and the materials to be used.

Tartan Yachts shall have the right to inspect the boat prior to the approval of a warranty claim to determine the validity of the claim and the nature of the defect. Such inspection may involve the removal of a core sample of laminate.

In the event that Tartan Yachts approves a claim under the Structural Warranty or the Blister Warranty, Tartan Yachts may, at its option purchase the vessel from the owner for the original purchase price of the vessel. All charges for authorized warranty repairs must be submitted within a period of thirty (30) days of the performance of the work on forms provided by Tartan. These forms are available through an authorized Tartan dealer or at www.tartanyachts.com.

For questions regarding your policy, click here

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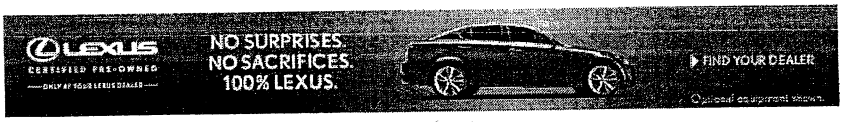
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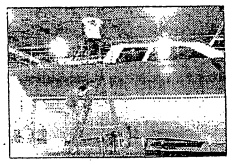

KYLA BORDNER, 5, (right on ladder) of Conneaut starts up a ladder as Marion Shoaff (left) comes down the ladder during an open house at Novis Marine. Bordner was quickly stopped before she got too high while crew leader Mark DeGennaro of Ashtabula stands on the boat.
WARREN DILLAWAY

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Published September 24, 2007 11:05 pm - Luxury boats are made in Conneaut

Bucks for boats

You'll need six figures to keep one afloat

By MARK TODD - Staff Writer - mtodd@starbeacon.com
Star Beacon

CONNEAUT — A Conneaut company that specializes in things nautical but nice — very nice, judging by the price tag — celebrated a milestone with family and friends Monday.

Novis Marine, 341 Harbor St., threw open its doors to allow employees to show off their latest achievements — the recent construction of two sailing yachts.

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A manufacturer of sailing masts for many years, Novis recently began constructing high-end sailing vessels for the discriminating sailor, said David Heinonen, plant manager. The latest creations, 44-foot and a 41-foot boats, respectively, were on display at a special open house held to salute and share the workers' craftsmanship.

One of the vessels will be delivered to Toronto, the other to the state of Washington, Heinonen said.

The boats are a few digits removed from the typical boats spotted plying Lake Erie along this lakefront community. Prices for the Novis yachts reach six figures and more, depending on accessories and extras, Heinonen said.

Flat screen televisions, separate bedrooms — even and washers and dryers — have been added to some of the Novis creations, Heinonen said. Customers have included engineers and a dentist, he said.

Workers spend between 2,000 and 3,000 hours creating and equipping the craft. Hulls and decks are laminated and fashioned from fiberglass infused with epoxy resins, he said. Each comes standard with one of Novis Marine's carbon-fiber masts.

Hardware for the yachts is provided by Challenger Manufacturing, a Novis subsidiary. If requested, Novis can provide special paint designs, arrange delivery and even assist with the christening ceremony.

"They are all custom-built from specifications per the customer," Heinonen said. "We are a complete boat manufacturing facility."

Until this year, the yachts were built in Fairport Harbor, Heinonen said. Early in fiscal year 2007, the decision was made to bring the operation to Conneaut, he said.

"Due to increased sales and volume, the business was transferred to Conneaut," Heinonen said.

About 45 people now work at Novis and more will be added, Heinonen said.

The yachts admired by the employees' invitees are the third and fourth to be created in Conneaut. In the works is a 53-foot vessel now in the engineering and tooling phase, Heinonen said.

"We have global sales," he said. "One of our boats is set for Japan."

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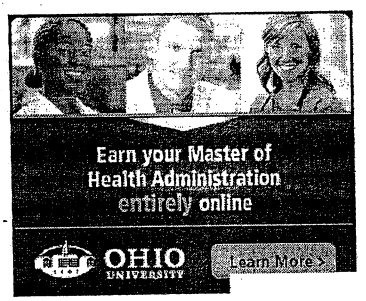

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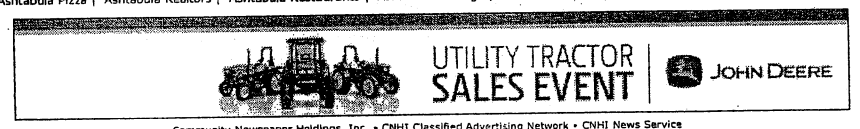

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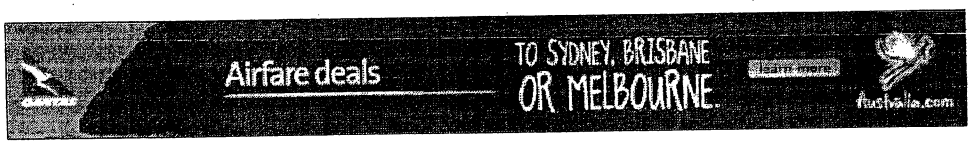
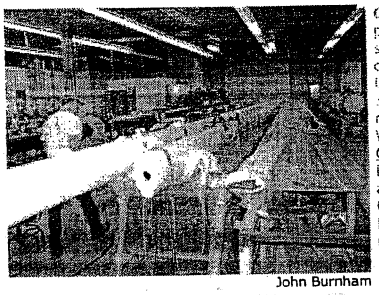


Shop Tour: Reaching for Higher Tech, Pt. 1

By the lake just east of Cleveland, Fairport Yachts builds C&Cs and Tartans at one facility and long carbon products under the Novis Composites brand at another. We did a shop tour of both operations last week, beginning with Novis, the mast maker.

Jan 17, 2005
By John Burnham (More articles by this author)



John Burnham

Foreground: Newly sprayed with Awlgrip and with hardware installation in progress, two new C&C and Tartan carbon fiber masts near completion at Novis Composites in Conneaut, Ohio. Background, far left: The autoclave, acquired from the former Hi-Tech Composites, is one of two used to bake the vacuum-bagged laminates under one atmosphere of pressure.

Outside it's wet. Slushy remains of lake-effect snowfalls puddle and melt in an unseasonable January thaw. And it's starting to rain. The days are still short and there are cloudy ones ahead for those who live along the southern shore of Lake Erie in small towns like Conneaut, Ohio. But inside 30,000 square feet of an old 70,000 square foot [illegible] manufacturer is warm, dry, dusty, and filled with long tubes. We're visiting Fairport Yachts' spar business, Novis Composites, which didn't exist 18 months ago and is now building more than 100 carbon spars a year using autoclaves and molds purchased in a liquidation sale from Hi-Tech Composites. David Hulse, formerly a principal at Hi-Tech in North Carolina, is the president of the new operation and gives us the tour along with Fairport COO Tim Jackett.

Fairport's owner, Bill Ross, negotiated the deal that brought Hi-Tech north, picking up an in-house capability to continue his and Jackett's plan to make Fairport's Tartan and C&C lines into technology leaders. In the summer of 2003, even before the Conneaut operation was up and running, Fairport announced that all models in 2004 would be delivered with carbon masts.

That turned out to be a little gutsy. Hulse spends most of his time on the road and at home in North Carolina, doing the detailed design and engineering drawings and working on custom sales. But he spends at least a couple days every few weeks in Conneaut to help move things down the track.

Jackett admits Novis has had a steep learning curve, in part because the local work force doesn't know sailboats, despite its lakeside location. But they've made steady progress and are now shifting their Tartan and C&C production masts from using Hi-Tech's original carbon molds to three new aluminum molds, which produce a better laminate, requiring little refinishing.

The masts are built with hand-laid unidirectional and biaxial pre-preg carbon fiber, with reinforcements on the inside of the mast to further limit the handwork required after molding. The spars are baked in one of two autoclaves, painted with AwlGrip, and then finished with off-the-shelf aluminum spreader brackets, mastheads, sheave boxes, etc.

The new molds also allow for a new PVC luff-groove insert that's capable of holding a bolt rope (for race boats), traditional slugs or slides (for cruisers) or the inexpensive Dutchman batten roller cars (also for cruisers) so additional hardware is unnecessary.

As production improves and efficiencies kick in, Jackett says they expect they can deliver a carbon spar for a mid-size cruising boat at a relatively low additional cost (compared to aluminum) of $2,000 to $3,000, a considerable achievement.

While Novis serves as Tartan and C&C's in-house supplier for masts and other carbon parts, Hulse has already begun selling to the custom market on a limited basis. Novis built the mast for Trader, a Transpac 52, and has spars in the works for custom projects up to a 70-foot sled for 2005.

Not far from the painting booth, a plastic-draped area holds a tooling project—the mold for the deck of the new C&C 115 is being finished off. And in another part of the sprawling building, a much bigger tooling project is underway. With a skin on it, the thing would definitely float—it's the male hull plug for Tartan's new flagship model, the 5100. Jackett's eyes light up as he considers his latest design taking shape, points out how the station sections are marked on the concrete floor, and describes the process of assembling the plug accurately.

Next installment: On the boat-shop floor.

Reader Comments

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Now you're in the public comment zone. What follows is not Sailing World stuff; it comes from other people and we don't vouch for it. A reminder: By using this Web site you agree to accept our Terms and Conditions. Click here to read the Privacy policy

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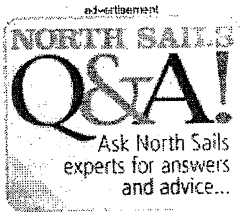

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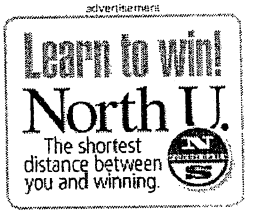

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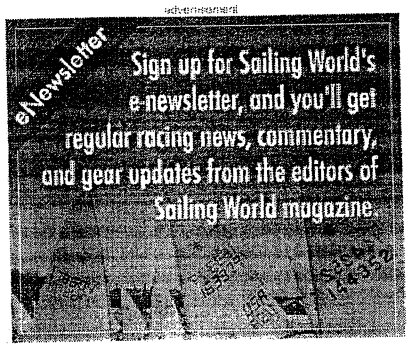

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TONE NEWS

Tartan Owners—Northeast

Spring 2008

Notes

From the Co-chairs Leo Corsetti and Skip King

There are a lot of exciting changes in TONE. Last summer, we gained some new board members: Martin Waine, Sam Swoyer Gary Van Voorhis, Larry Venezia, and Ginger Weismantel.

Leo Corsetti and Skip King are co-chairpersons; Alan Benet, Peter Crawford, John Harvey, John Feingold, John Allen, and Mike Musen remain on the board. Ginger Weismantel has offered her talent to put together the TONE Newsletter for us, and Vin Petrella asked to remain as the Tartan/Novis liaison.

There are many plans in the works. We had a midwinter dinner at the Winthrop Yacht Club on January 12 after the New England Boat Show, and it was a lot of fun. Bill Ross of Novis Marine gave TONE all his support for the 2008 season; he stated that our organization is respected by Tartan and is their leading Owner Group.

Guest speaker, David Buckman, gave us a wonderful talk about his cruise throughout NE. Peter Crawford brought us up-to-date on the Maine cruise for the summer of '08; and believe it or not, we are starting to plan the '09 Rendezvous. Your response to the survey has given us a very clear path as to where we will go with TONE for the next few years.

Photo by Joyce Stoehr

Skip King and Leo Corsetti at the midwinter gathering at the Winthrop Yacht Club on January 12, 2008.

Our members just gained an exciting benefit: Novis Marine has offered all current, paid-up TONE Members a **10% discount on any Tartan parts.** We're working up the final agreement; check the TONE website for details.

Please send your 2008 dues to John Feingold. The $25.00 annual dues allows TONE to create a lot of great activities and services. We have conference calls once a month and support the current **www.tartanowners.org** website, which is undergoing an update by Gary Van Voorhis and John Harvey of the T34C and TONE associations.

We also would like to request that all other Tartan clubs throughout the country send us your plans so we can post them for you in our newsletter and new website.

Keep your thoughts and suggestions coming! TONE belongs to you—all we are doing is watching over it for you. We will hope to see many members over this spring.

We would also like to give many thanks to Bill Ross, Tim Jackett, Vin Petrella, Will Pease, Pam Viscomi, Jon Gaines, John Quarles and Rob Windsor from Tartan for their wonderful and continued support.

Leo Corsetti and Skip King
Co-chairpersons

Tartan News

From Tartan Yachts

TONE caught up with new **Novis Marine CEO J. Hunter Banbury** recently. There are big doings afoot. First up—going forward,, the company will be called *Grand River Composites.*

Banbury described expansion on three fronts. First, the company will move its primary manufacturing facility to a 220,000 square foot plant. The move is expected to be completed by the end of 2008.

"We're bursting at the seams in Fairport Harbor," Banbury said. "The move will also help us with the second area of planned expansion: we're looking to acquire new businesses, both in the marine and industrial composite industries."

Novis Spars and the construction of the Tartan 4100, 4400 and 5300 hulls will remain at the company's satellite facility in Conneaut, Ohio.

The third area of expansion? More boat models. A new Tartan in the 60' range is in the planning stages, and the company will be introducing the new C&C 131 later this year. A new open-class racing boat, the Novis 40, is also in the works.

Banbury has a successful track record of building successful businesses around complex manufacturing. And one of this primary focuses is on quality control.

"We've already expanded the **quality control program,**" said **Tim Jackett,** Novis Marine's chief designer and COO. "There are now more quality control inspection points during manufacturing, and our QC team is been given increased power to determine that each new boat is ready for delivery."

The company is also retooling several sales programs. "I plan to put more boats into stock with our dealers," Banbury said. "I want to ensure that potential owners have easier access to all of our models while they're considering purchase."

The distribution network will continue to feature both branded Tartan C&C Dealerships and a robust network of domestic and international independent dealers.

"We hope to have a presence at the fall boat shows in Europe," Banbury said. "We just added a dealer in Italy, and we expect to add 10 or 15 new stocking dealers by the end of the year. In the near future, we expect 50% of our sales to be international."

Some things won't change, however. For example, existing warranties will be unaffected by the change in ownership, which is expected to occur this spring.

A Defect And Its Aftermath

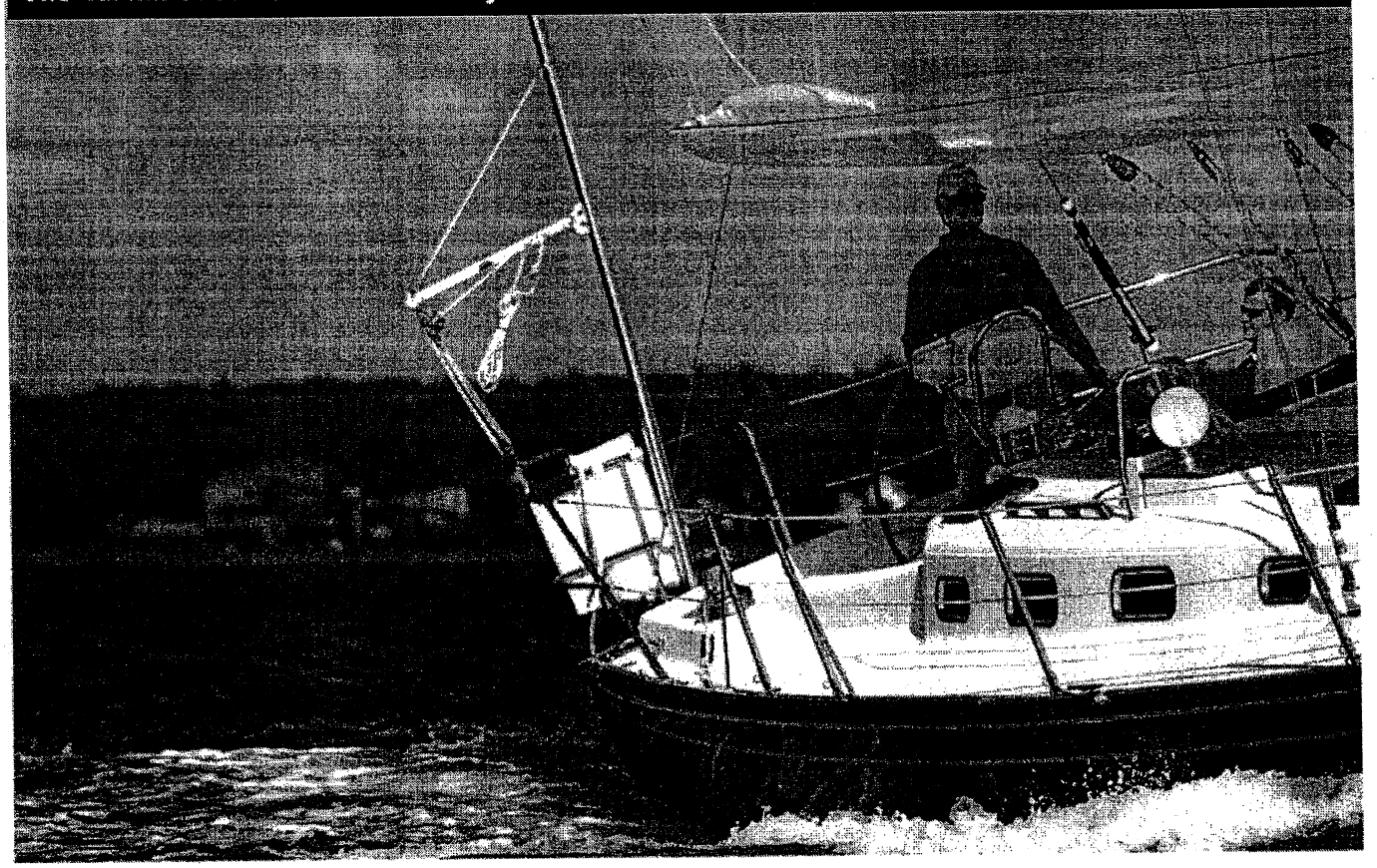
By Caroline Ajootian

A hull crack that nearly sank a sailboat in the Atlantic reveals a manufacturing defect, and unleashes a blogging nightmare for an esteemed boatbuilding company

A year ago, owners of certain Tartan 3700 sailboats received letters from the boat's manufacturer, Tartan Yachts, describing a manufacturing defect on one vessel that prompted the company to call for inspections of 60 others. A year has passed since the letters were sent out, yet — fairly or unfairly — questions about the safety of these boats persist on Internet sailing chat rooms and on marina docks around the country.

Tartan's letters came more than a year after a 2005 Tartan 3700 called *Blue Heron* near-

The Tartan 3700 has been the subject of much internet chatter since the *Blue Heron* incident.



ly sank due to what Tartan describes as a "significant" hull fracture caused by what the company acknowledged was a manufacturing deficiency. The accident occurred in the Atlantic Ocean off the New Jersey coast in December 2006. The boat manufacturer acknowledged they had "not done a good job of communicating" with owners of these boats in the intervening year, exposing them to high risk if their vessels, too, had the same hull problems. Company officials told BoatU.S. that they inspected a few boats built at about the same time as *Blue Heron* and none were found to have the same hull problem. The company also told BoatU.S. that no other Tartan 3700 owners have reported similar hull problems with their boats.

BoatU.S. Investigates

BoatU.S. recently discussed the Tartan 3700 situation, as well as sailors' concerns about the boats, with William Ross, owner of Novis Marine Ltd., parent company of Tartan Yachts and C&C Yachts. Ross explained that *Blue Heron*'s hull failed because not enough fiberglass cloth and resin was laminated at the centerline just forward of the keel. Construction of large vessels like the Tartan 3700 involves rotating the mold so that technicians can laminate one side, then rotating the mold so the other side can be built. In the case of *Blue Heron*, the overlap between the two sides didn't meet the design's lamination specs.

Ross said that *Blue Heron* was brought to Tartan's factory in Fairfield, Ohio, immediately after the accident occurred in December 2006. The boat was inspected, the defect identified and completely repaired, he said, adding that the owners

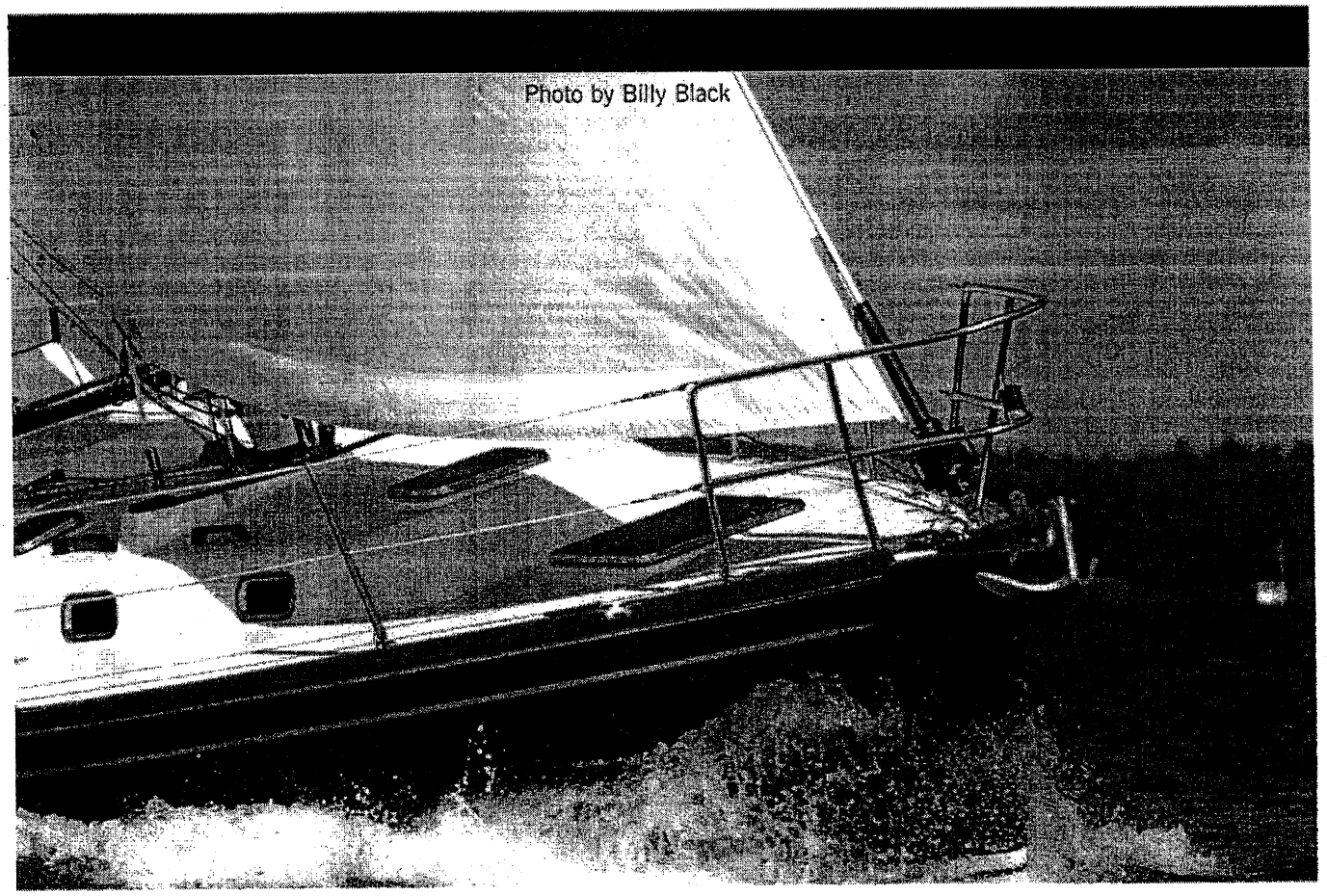


Photo by Billy Black

were fully satisfied with the work and are currently considering the purchase of a larger Tartan model.

Ross told BoatU.S. that Tim Jackett, designer of the Tartan 3700 and the company's COO, personally inspected vessels with hull identification numbers just before and after that of *Blue Heron* and found no problems, which indicated to them that the defect was indeed an oversight in the construction process of that one boat, rather than a flaw in the overall design.

Ross told BoatU.S. that Tartan's effort to alert owners to possible hull problems was the responsible, proactive approach but that criticism by bloggers exaggerated the situation. At least two Tartan owners have filed lawsuits against the manufacturer, alleging problems completely unrelated to the hull defect manifested in the *Blue Heron* accident. These individuals, Ross said, have widely posted their grievances, as well as other negative information about Tartan Yachts, online in an effort to embarrass the company into ceding to their wishes. "They're Internet terrorists," said Ross.

In January 2008, a month after the letter to owners was written, Novis Marine announced the sale of its assets to a private equity group based in Cleveland. Typically, legal liability for products and for warranty obligations is transferred only when the corporate entity, rather than physical assets such as real estate, machinery, and designs, is purchased outright. New owners are not required to provide warranty coverage on the predecessor's products. Ross said the bloggers seized on this development as evidence that the company wanted to absolve itself of warranty obligations. He assured BoatU.S. that these allegation are completely false and that Tartan and C&C warranties will be honored.

The Internet campaign was also mentioned in the boatbuilder's letter to Tartan 3700 owners. "Over the past few months, there has been a substantial amount of 'chatter' regarding the safety of the Tartan 3700 hulls," states the letter, which was signed by Jackett. "The Internet chatter would have you believe that [the *Blue Heron* near-sinking] was a sudden and catastrophic failure, but careful analysis showed the failure was not sudden at all."

A Scary Night At Sea

Information published by the company has offered differing explanations for the December 2006 incident that occurred a few hours before dawn about nine miles offshore and 12 miles southeast of Barnegat Light. During what should've been a routine delivery from Staten Island, New York, to Annapolis by a professional crew, *Blue Heron*, a Tartan 3700 sailboat built in 2005, began taking on water and listing dangerously. The Atlantic seas that morning were running six to seven feet and the crew, fearing the vessel would sink, issued a mayday call. Water quickly reached several feet deep in the cabin.

According to court documents filed as part of a salvage claim for the vessel, efforts by the U.S. Coast Guard to staunch the flow of water into the boat failed. The crew was airlifted by a Coast Guard helicopter. More powerful dewatering pumps provided by a salvor called to the scene stabilized *Blue Heron* so that she could be towed to a marina. Once the boat was hauled, inspection revealed a 30-inch hull crack along the centerline just forward of the keel. Tartan technicians inspected *Blue Heron* and she was transported to the company's factory in Fairport for further evaluation and repairs.

A few months after the boat was brought to the factory, a memo to dealers from Jackett stated, "We concluded that although we might not know the exact cause of the

damage to the hull. it was the result of several contributing factors, including improper rig tuning."

Though the memo also states, "There may have been an area just forward of the mast step and near the instrument through-hull penetrations where the centerline laminate overlap was less than ideal," the memo clearly lays much of the blame at the feet of *Blue Heron*'s owner

"During the previous two seasons the owner had complained that the rigging was too long and had provided photos showing shroud turnbuckles either close to or were bottomed out on their adjustment," the Tartan memo states. "Our experience has been that the only way to apply the amount of rigging tension that would allow this rigging to reach its maximum adjustment is to tension the leeward shrouds while sailing ...The answer is that, if an owner tightens rigging while it is under load, he can exert enough compression loading at the mast step to cause damage."

For non-sailors, the stays (also known as shrouds) are part of a sailboat's standing rigging and support the mast both fore and aft, as well as side to side. The situation described in the dealer memo involves the port and starboard stays. Turnbuckles allow stay tension to be adjusted, but adjustments each time the boat changes tack usually aren't necessary or recommended. It's not unusual or a matter of concern for the leeward shrouds to have some slack when a boat heels under sail.

Tartan Makes Good

Jackett's letter to owners states that he inspected an unspecified number of other Tartan 3700s of the same vintage as *Blue Heron* and found "no other boats with this issue." Nevertheless, the letter invites owners of Tartan 3700 hulls 58 through 119 to have boats inspected by dealers. The 61 boats in this hull-number range were built between 2002 and 2007, sources told BoatU.S. According to the letter, boats found with hull damages will be repaired at no expense to owners, an offer Ross repeated during his conversations with BoatU.S.

Jackett's letter acknowledges that the company was "slow to respond to the concerns of owners" in part because the company "needed to thoroughly understand the causes of a problem with one boat ...Our investigation revealed that [the *Blue Heron* hull] did not have the proper amount of overlap for a short section forward of the keel stub, as required by the laminate schedule. "Over time, the comparative lack of strength in this area allowed it to gradually delaminate, ultimately resulting in the crack that allowed water to enter during the delivery."

Jackett's letter to owners states that the weak area in *Blue Heron*'s hull was located under the boat's floor pan in an area owners normally wouldn't inspect. The letter doesn't mention the earlier allegation that the hull damages were caused by over-tightening the boat's rigging, but Ross told BoatU.S. that some of the damages were caused by the owners.

BoatU.S. has provided the Coast Guard with information obtained from owners. If the Coast Guard determines that other boats have the same defect, the manufacturer could be required to initiate a recall campaign.

Ross says he is fully confident that the problem with this particular boat was unique to *Blue Heron*, that it has been fixed to the highest standards, and to the full satisfaction of the owner.

Tartan 3700 owners who have observed hull damages should contact the BoatU.S. Consumer Protection Bureau, ConsumerProtection@BoatUS.com or 703-461-2856.

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DEC 23 2009

CERTIFIED MAIL

Mr. A. Christian Worrell III, Esq.
Graydon Head & Ritchey LLP
7759 University Drive, Suite H
West Chester, Ohio 45069

Re: Final Findings and Orders for: Violations of air pollution control requirements by Cast-Fab Technologies, Inc.'s ductile iron foundry at 3040 Forrer Street, Cincinnati, Ohio

Dear Mr. Worrell:

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 #14)
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Tan Tran, DAPC
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In the Matter of:

Cast-Fab Technologies, Inc. 3040 Forrer Street Cincinnati, Ohio 45209	: : :	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: _____ Date: 12.23.09

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Cast-Fab Technologies, 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 identified) 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's facility is a ductile iron foundry at 3040 Forrer Street in Cincinnati, Ohio. At this facility, Respondent owns and operates various equipment, including furnaces, paint spray booths, and mixers, and performs certain operations, including cleaning operations, and sand handling and pouring operations. Respondent purchased the current facility from the Foundry Division of Cincinnati Milacron on April 13, 1988.

2. At the above-referenced facility, Respondent operates the following emissions units ("EUs"):

EU Number	EU Description	Date of Installation	Date of Initial Operation
F014	Inoculation Process	1963	1963
F015	3600 KW Coreless Electric Induction Furnace	1987	1987
F016	3600 KW Coreless Electric Induction Furnace	1987	1987
F018	3750 KW Coreless Induction Furnace	1989	1989
F019	Large Mold Pouring and Cooling Line	June 1940	June 1940
F020	Medium Mold Pouring and Cooling Line	June 1940	June 1940
F021	Small Mold Pouring and Cooling Line	June 1940	June 1940
F022	Charge Handling	June 1940	June 1940
F023	Medium Mold Mixer and Mold-Making	July 1982	July 1982
F024	Large Mold Mixer and Mold-Making	September 1983	September 1983
K001	Light Fab Paint Booth with Paint Applicator	1973	1973
K003	Paint Applicator for Small Castings	1941	1941
K006	Paint Applicator for Small Castings	June 1972	June 1972
K010	Paint Applicator for Medium/Large Castings	June 1972	June 1972

K011	Paint Applicator for Medium/Large Castings	June 1972	June 1972
K012	Paint Applicator for Medium/Large Castings	June 1972	June 1972
K013	Paint Applicator for Medium/Large Castings	June 1972	June 1972
K014	Paint Applicator for Medium/Large Castings	Unknown	Unknown
K015	Paint Applicator for Medium/Large Castings	June 1972	June 1972
K016	Paint Applicator for Heavy Fabrications	April 1953	April 1953
K017	Paint Applicator for Heavy Fabrications	April 1953	April 1953
P014	Medium Mold Line Abrasive Cleaning	June 1960	June 1960
P015	Large Mold Line Abrasive Cleaning	June 1963	June 1963
P016	Small Mold Line Abrasive Cleaning	June 1969	June 1969
P026	Pneumatic Sand Handling System	June 1970	July 1970
P029	Small/Medium Line Grinding Booths	December 1981	January 1982
P030	Small Mold Line Casting Shakeout	June 1979	June 1979
P031	Medium Mold Line Casting Shakeout	June 1947	June 1947
P032	Large Mold Line Casting Shakeout	June 1947	June 1947

P034	Swing Grinding	June 1972	June 1972
P036	Small Mold Line Mold Making and Sand Preparation	June 1941	June 1941
P038	Sand Reclamation	June 1982	June 1982

Each of the above-listed EUs is an "air contaminant source" as defined in OAC Rules 3745-31-01(I) and 3745-15-01(C) and (W).

3. In addition to applicable laws and rules, a Title V Permit, initially issued by the Director of Ohio EPA on May 16, 2001, governs Respondent's operations at the foundry facility. The Title V Permit establishes emission limitations, and monitoring, record-keeping and reporting requirements for all EUs at the above-referenced facility. Since Respondent filed a timely Title V renewal application prior to the expiration date of May 16, 2006 of the Title V permit, the requirements of the expired permit continue in effect until final action is taken by the Director on the renewal application. ORC § 3704.05(J)(2) provides that no person shall violate any applicable requirement of a Title V permit or any permit condition [except for an emergency defined in 40 C.F.R. 70.6(g), which exception does not apply here]. Also, ORC § 3704.05(A) prohibits any person from allowing any emission from any source in excess of that permitted in any rule adopted by the Director of Ohio EPA. ORC § 3704.05(C) states, in part, that no person who is a holder of a permit issued under ORC § 3704.03(F) or (G) shall violate any of its terms and conditions. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704.

4. Respondent has violated rule requirements and numerous requirements of its Title V permit at the foundry facility.

<u>Failure to Perform Weekly Visible Emissions Checks and Record Information</u>

5. Part III, Section A.III.1 of the special terms and conditions of Respondent's Title V Permit for EUs F019 through F024; and Part III, Section A.III.2 of the special terms and conditions of Respondent's Title V permit for EUs F014 through F016, F018, K001, K003, K006, and K010 through K017 require Respondent to perform weekly visible emissions checks, when the emissions unit is in operation and weather conditions allow, and to record the required information in the operations log for EUs F014 through F016 and F018 through F024, K001, K003, K006, and K010 through K017.

6. Part III, Section A.III.1 of the special terms and conditions of Respondent's Title V Permit requires Respondent to perform weekly inspections of each baghouse serving EUs P029 through P032, P034 and P036, when the respective emissions unit is in operation and weather conditions allow, and to record the required information in the operations log for such EUs.

7. For about 137 days from on or about April 25, 2005 until on or about December 31, 2006 (except for days of non-operation for two weeks between April 25 and December 31, 2005 and three weeks in 2006) for EUs F014 through F016 and F018 through F024, K001, K003, K006, and K010 through K017, P029 through P032, and P036, and from April 25, 2005 to May 30, 2008 for EU P034, and for the weeks of June 11 and 18, 2007 for EUs P030 and P036, Respondent failed to make and/or record weekly checks of visible emissions when the emissions units were in operation and weather conditions allowed. This is in violation of the Title V Permit and ORC § 3704.05(J)(2).

Failure to Record Pressure Drop Readings

8. Part III, Section A.III.1 of the special terms and conditions of Respondent's Title V Permit requires Respondent to daily monitor, and maintain records of, the pressure drop across the air pollution control equipment serving EUs P014 through P016, P026, and P038.

9. Respondent failed to record the pressure drop for the air pollution control equipment serving the following EUs:

Emissions Unit	**Starting date** (from)	**Ending date** (to)	**Total number of days**
P014/P015	1/01/07 4/25/05	3/04/07 12/31/06	63 616
P016	3/01/06 6/01/06	3/31/06 6/30/06	31 30
P026	1/01/06 1/01/07 6/11/07 6/18/07	12/31/06 3/04/07 6/15/07 6/23/07	365 63 5 6
P038	2/01/06 4/30/06 1/01/07 9/12/07	2/28/06 12/31/06 1/31/07 9/12/07	29 245 31 1

This is in violation of the Title V Permit and ORC § 3704.05(J)(2).

Failure to Check Baghouses Weekly and Record Observations

10. Part III, Section A.III.1 of the special terms and conditions of Respondent's Title V Permit requires Respondent to perform weekly checks on baghouse, ductwork, and filter bag condition for EUs P029 through P032, and P036, and to record the results of each inspection in a log book.

11. Respondent failed to make, and record the results of, weekly checks of the baghouses, duct work, and filter bags controlling EUs P029 through P032, and P036 from on or about April 25, 2005 through December 31, 2006; and EUs P030 and P036 from on or about June 11, 2007 through June 25, 2007. This is in violation of the Title V Permit and ORC § 3704.05(J)(2).

Failure to Collect and Record Coating Information

12. Part III, Section A.III.1 of the special terms and conditions of Respondent's Title V Permit requires Respondent to daily collect and record the name and identification number of each coating employed, among other information, for EUs K010 through K017.

13. On January 11, 2007, Respondent failed to collect and record the name and identification number of each coating employed in EUs K010 through K017. Respondent recorded coatings on that day as being for emissions units it labeled, K018, K019 and K020. But no emissions units exist with those labels. Consequently, Ohio EPA could not determine which coatings were used at EUs K010 through K017. This is in violation of the Title V Permit and ORC § 3704.05(J)(2).

Failure to Maintain Pressure Drop Within Required Ranges

14. Part III, Section A.III.1.a. of the special terms and conditions of Respondent's Title V Permit requires Respondent to maintain the pressure drops across the baghouses for EU P026 within the following ranges while the emissions unit is in operation, except during startup and initial loading of filters following filter changes:

Baghouse ID	Acceptable Pressure Drop Range
BH-05	1.5 - 8.5 psia
BH-06	1.5 - 8.5 psia

15. On March 5 through March 31, 2007, at times other than during startup and initial loading of filters following filter changes, Respondent failed to maintain pressure drop at BH-05 and BH-06 of EU P026 within the range required by the Title V Permit for EU P026. This is in violation of the Title V Permit and ORC § 3704.05(J)(2).

16. Part III, Section A.III.1.a. of the special terms and conditions of Respondent's Title V Permit requires Respondent to maintain the pressure drops across the cartridge filter and baghouse for EU P038 within the following ranges while the emissions unit is in operation, except during startup and initial loading of filters following filter changes:

Unit	Acceptable Pressure Drop Range
CF-01	1.5 - 6.0 inches of water
BH-03	1.5 - 6.0 inches of water

17. On February 15 through 19, 2007, February 21 through 27, 2007, March 10, 19 and 21, 2007, and from July 18 through September 20, 2007, Respondent failed to maintain pressure drops at CF-01 and/or BH-03 of EU P038 within the range required by the Title V Permit for EU P038. This is in violation of the Title V permit and ORC § 3704.05(J)(2).

Failure to Timely Submit Semi-Annual Deviation Reports

18. Part III, Section A.IV.1 of the special terms and conditions of Respondent's Title V Permit requires Respondent to submit to Ohio EPA semi-annual deviation reports by January 31 and July 31 of each year to cover the previous 6-month period for all EUs at its facility. This requirement includes reports for any period where no deviations occurred.

19. Respondent failed to submit accurate semi-annual reports by July 31 of the given year for the first half of 2005 and 2006 and by January 31 of the following year for the second half of 2005 and 2006. This is in violation of the Title V Permit and ORC § 3704.05(J)(2). Accurate and complete reports were not submitted until March of 2007.

Using Coatings In Excess of VOC Emission Limitation

20. OAC Rule 3745-21-09(U)(1)(c) provides that no owner or operator of a miscellaneous metal part or product coating line may cause, allow or permit the discharge into the ambient air of any volatile organic compound ("VOC") from such coating line in excess of 3.5 pounds (daily volume-weighted average) of VOC per gallon of extreme performance coating used, excluding water and exempt solvents. (This rule was adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704.) Part III, Section A.I.1 of the special terms and conditions of Respondent's Title V Permit requires for EU K001 that Respondent only use coatings that do not exceed 3.5 pounds of VOC per gallon of coating, excluding water and exempt solvents.

21. On January 25 and 30, February 4, March 2, 6, and 28, April 11 and 20, May 24, June 21, 28 and 29, July 15, August 24, September 1 and December 18 and 19, 2006, Respondent applied an extreme performance coating and permitted the discharge into the ambient air of VOC from the coating line in excess of 3.5 pounds (daily volume-weighted average) of VOC per gallon coating, excluding water and exempt solvents, and failed to maintain emissions of VOC at or below 3.5 pounds per gallon, excluding water and exempt solvents, as a daily volume-weighted average, for EU K001. This is in violation of the Title V Permit, OAC Rule 3745-21-09(U)(1)(c) and ORC § 3704.05(A), (G) and (J)(2).

Failure to Limit Coating Usage to 3 Gallons or Less

22. Part III, Section A.I.1 of the special terms and conditions of Respondent's Title V Permit requires Respondent to limit the coating usage to 3 gallons or less per day for, among other EUs, EUs K003 through K013.

23. In violation of the Title V permit and ORC § 3704.05(J)(2), Respondent failed to limit coating usage to 3 gallons or less per day per EU on the following days:

EU K010, on February 10 and 28, and March 9, 17, 20, 23, 30 and 31, 2006;

EU K011, on February 28, March 3, 8 and 24, and October 9 and 16, 2006, and February 26, 2007;

EU K012, on March 17 and September 29, 2006; and

EU K013, on March 15 and September 29, 2006.

24. Respondent reported most of these violations in deviation reports and other documents filed with the Hamilton County Environmental Services ("HAMCO"), a contractual representative of Ohio EPA in Hamilton County. Respondent was issued with notices of violation by HAMCO addressing the violations described in the above Findings. The notices were dated April 23, 2007, August 23, 2007, and June 25, 2008.

25. 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. Respondent shall pay the amount of eighty thousand dollars ($80,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC § 3704.06. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for sixty-four thousand dollars ($64,000) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

2. In lieu of paying the remaining sixteen thousand dollars ($16,000) of civil penalty to Ohio EPA, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $16,000 to the 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 $16,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

3. 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

4. Should Respondent fail to fund the SEP within the required timeframe in Order 2, Respondent shall immediately pay to Ohio EPA $16,000 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the 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 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:

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

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.

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 the 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 the 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 said Orders are stayed, vacated, or modified.

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

12/22/09
Date

AGREED:

Cast-Fab Technologies, Inc.

Farley Houston
Signature

12/11/09
Date

Farley Houston
Printed or Typed Name

Vice President, Human Resources
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

DEC 30 2009

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

Re: L&C, Inc., Lucille Hall; Unique Finishers, Inc., Kenneth and Belinda Hall; D&S Coating, Sandy and Dan Hall; and Binks Coating, Lynn Binkly

Dear Mr. Cordray:

Pursuant to ORC § 3704.06, I hereby request that you initiate all necessary legal and/or equitable civil actions against the above-subject parties, and all other appropriate parties, and seek appropriate penalties for violations of Chapter 3704 of the Ohio Revised Code and regulations adopted thereunder.

Thank you for your assistance in this matter. Any questions you may have should be directed to Patty Porter (644-3695) or Tom Kalman (644-3598) of the Division of Air Pollution Control's ("DAPC") Enforcement Section. Please keep them and Bryan Zima (644-3037) of my legal staff apprised of the status of this matter and any action taken with regard to it. Please also coordinate all negotiations and any resolution of this matter with Jim Orlemann, Enforcement Coordinator of the DAPC.

Sincerely,

Chris Korleski
Director

CK:TK:tk
Enclosures
xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Patty Porter, DAPC
Bryan Zima, Legal Office
Jeff Canan, RAPCA

Ohio EPA
Division of Air Pollution Control

INTER-OFFICE COMMUNICATION

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

FROM: Bryan Zima, Supervising Attorney, Legal Office; and Jim Orlemann, Enforcement Coordinator, DAPC

SUBJECT: Notes concerning the referral of L&C, Inc., Lucille Hall; Unique Finishers, Inc., Kenneth and Belinda Hall; D&S Coating, Dan and Sandy Hall; and Binks Coating, Lynn Binkly to the Attorney General's Office

DATE: December 23, 2009

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

Ohio EPA is referring the above Respondents to the Attorney General's Office ("AGO") for enforcement action to resolve the violations of ORC § 3704.05 and of the Ohio Administrative Code ("OAC"). Attached are Draft Findings and Orders that were prepared by the Division of Air Pollution Control for the AGO's use in preparing a complaint and consent order. The following is a brief summary of the case.

SYNOPSIS

- Respondents owned and operated a miscellaneous parts and products coating operation at 220 Fox Drive, Piqua, Ohio. The facility contained 13 coating lines and a mixing room for paints and solvents. These air contaminant sources were in operation for about seven years without permits to install and operate. The Regional Air Pollution Control Agency ("RAPCA") discovered this facility during a visit on February 16, 2006. A full inspection was conducted on June 29, 2006.

- Based on information obtained from the company, the emissions unit had been installed and operated without applying for and obtaining the required air permits. Also, based on purchase records, it was determined that the facility was subject to the Title V operating permit requirements due to exceeding the threshold level for hazardous air pollutants ("HAPs") (i.e., toluene).

- RAPCA sent the company a Notice of Violation letter on August 15, 2006, wherein it informed the company that it violated the permit to install and Title V operating permit rules. Furthermore, the company was given the option of either obtaining a synthetic minor permit to limit HAPs to below major source applicability thresholds or comply with the applicable requirements of the MACT in Subpart MMMM. A compliance plan and schedule and other information were requested. No response

was received.

- When RAPCA attempted to visit the facility on May 4, 2007, the facility was found to be vacant and no forwarding address was available. By checking with paint suppliers, RAPCA found that Respondents had moved to adjacent properties in Troy, Ohio, and were operating under different names. On July 31, 2007, RAPCA visited the sites and found some of the same equipment was being used that was formerly at the Piqua facility.

- RAPCA attempted to obtain the proper permit applications from the owner/operators of each of the three facilities. Since the facilities were contiguous and meet Title V criteria, a Title V application was requested from the Respondents. Respondents then argued that they were separate facilities. Compliance discussions ended when RAPCA was informed that they did not intend to cooperate any further and would continue to operate. RAPCA referred the matter to Ohio EPA for enforcement action on December 28, 2007.

- Based on information currently available, the following violations were determined by RAPCA and Ohio EPA:

  a) failed to apply for and obtain PTIs for the installation of 13 emissions units employed at the Piqua facility, in violation of ORC Rule 3745-31-02 and ORC § 3704.05(G);
  b) failed to apply for and obtain PTI for the installation of the six emissions units employed at the Troy facilities, in violation of ORC Rule 3745-31-02 and ORC § 3704.05(G);
  c) failed to apply for and obtain a Title V operating permit to operate both the Piqua and Troy facilities, in violation of ORC Rule 3745-77-02 and ORC §§ 3704.05(G) and (J)(2);
  d) failed to keep the applicable records, in violation of OAC Rule 3745-21-09(B)(3) and ORC § 3704.05(G);
  e) failed to submit fee emission reports, in violation of OAC Rule 3745-78-02(A) and ORC §§ 3704.05(G) and (J)(2); and
  f) failed to comply with the applicable requirements of Subpart MMMM.

Since the Respondents would not cooperate with RAPCA in achieving compliance with applicable regulations, it was decided to recommend to the Director of Ohio EPA that the matter be referred to the AGO for enforcement action.

CIVIL PENALTY

DAPC has calculated a proposed penalty of $670,800 against Respondentsfor the violations of the air pollution control requirements, using USEPA's air civil penalty policy. (See the attached worksheet for information on the penalty calculation.) This penalty may changed upon discovery of additional information concerning the operations at the facilities.

RECOMMENDATION

Ohio EPA recommends that the AGO obtain a consent order with Respondents that contains the necessary injunction relief and the payment of an appropriate civil penalty consistent with the USEPA civil penalty policy. Otherwise, the AGO should pursue an injunction to cease the operations until compliance is achieved.

BZ/JO/TK/tk

Attachments

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

DEC 30 2009

CERTIFIED MAIL

Mr. R. Scott Haley, Esq.
Haley Law Offices Co., L.P.A.
867 Moe Drive, Suite G
Akron, Ohio 44310

Re: Final Findings and Orders for: violations of dust control requirements by Ameriseal & Restoration, LLC, d.b.a. Ameriseal, of 685 High Grove Blvd., Akron, Ohio

Dear Mr. Haley:

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 #16)
Donald L. Vanterpool, Legal Office
Felix Udeani, DAPC
Frank Markunas/Bonetta Guyette, Akron
Bob Cailor, Ameriseal

OHIO E.P.A.

DEC 30 2009

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Ameriseal & Restoration, LLC,	:	**Director's Final Findings**
d.b.a. Ameriseal	:	**and Orders**
685 High Grove Blvd.	:	
Akron, Ohio 44312	:	

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: 12/30/09

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Ameriseal & Restoration, LLC, d.b.a. Ameriseal ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

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

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent is a masonry contractor with an office located at 685 High Grove Blvd., Akron, Summit County, Ohio. Respondent was registered with the Secretary of State to do business in Ohio on May 16, 2001.

2. Akron Regional Air Quality Management District ("ARAQMD") is a contractual agent for Ohio EPA in Summit County.

3. A "fugitive dust source," is defined in part, in OAC Rule 3745-17-01(B)(7) as any source which emits fugitive dust as defined in OAC Rule 3745-17-01(B)(6). "Fugitive dust" means particulate matter which is emitted from any source by means other than a stack. The outdoor operation of masonry cutting and sawing equipment emits fugitive dust and constitutes a fugitive dust source and an "air contaminant source," as defined in OAC Rule 3745-15-01(C) and (X).

4. OAC Rule 3745-17-08(A)(1) states, in part, that the requirements of OAC Rule 3745-17-08(B) apply to any fugitive dust source which is located within the areas identified in Appendix A of such rule, unless otherwise provided in OAC Rule 3745-17-08(A)(3). The City of Akron is listed in Appendix A.

5. OAC Rule 3745-17-08(B) states, in part, that no person shall cause or permit any fugitive dust source to be operated; or any materials to be handled, transported, or stored; without taking or installing "reasonably available control measures" ("RACM") as defined in OAC Rule 3745-17-01(B)(18), to minimize or eliminate visible emissions of fugitive dust. Such measures shall include, but not be limited to, the use of water or other suitable dust suppression chemicals for control of fugitive dust from construction operations and/or the use of adequate containment methods. For masonry sawing operations, the Director finds the use of water hose connections for water application to suppress dust emissions, or equivalent device, constitutes RACM.

6. On April 26, 2007, Respondent emitted yellow dust from sawing brick on the front of an old fire station at 57 S. Broadway Street, Akron, Ohio without employing RACM to minimize or eliminate such emissions, in violation of OAC Rule 3745-17-08(B).

7. On June 11, 2007, Respondent conducted brick sawing operations at 57 S. Broadway Street in Akron, Ohio. Respondent generated visible emissions of fugitive dust as a result of sawing brick. Respondent failed to employ RACM to minimize or eliminate such emissions, in violation of OAC Rule 3745-17-08(B).

8. On June 14, 2007, ARAQMD issued a Notice of Violation ("NOV") to Respondent indicating that Respondent had failed to control dust emissions associated with brick sawing operations on April 26, 2007, and June 11, 2007, in violation of OAC Rule 3745-17-08(B

). The NOV concluded with a request that Respondent submit a written statement outlining its plan to control fugitive dust emissions at construction sites where cutting or sawing of brick is taking place.

9. On September 20, 2007, Respondent conducted brick sawing operations at 1115 South Main Street, Akron, Ohio without any form control measures for visible

emissions of fugitive dust. ARAQMD issued a local "Cease and Desist Order" to Respondent and requested Respondent to use proper control measures to minimize or eliminate fugitive dust in its operation. Respondent's failure to employ RACM to minimize or eliminate such emissions constitutes a violation of OAC Rule 3745-17-08(B).

10. On August 7 and 8, 2008, Respondent conducted brick sawing operations at 12 East Exchange Street, Akron, Ohio without employing any control measures for visible emissions of fugitive dust. Respondent's failure to employ RACM to minimize or eliminate such emissions constitute violations of OAC Rule 3745-17-08(B).

11. On August 18, 2008, Respondent submitted a written plan to ARAQMD to control fugitive dust emissions when cutting or sawing of brick. The plan included the use of dust collectors, vacuum equipment and water sprayers (i.e., RACM) to minimize or eliminate visible emissions of fugitive dust.

12. On March 16, 2009, Respondent conducted brick sawing operations at 54 Mill Street (at the corner of High Street) in Akron, Ohio. Respondent conducted the sawing operation without any control measure for visible emissions of fugitive dust. From Finding #s 9 and 11, Respondent had the knowledge and means to employ RACM to minimize or eliminate such emissions. Respondent's failure to employ RACM to minimize or eliminate such emissions constitutes a violation of OAC Rule 3745-17-08(B).

13. The violations of OAC Rule 3745-17-08(B) by the failure to employ RACM to minimize or eliminate fugitive dust emissions also constitutes violations of ORC § 3704.05(G).

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

V. ORDERS

The Director hereby issues the following Orders:

1. Upon the effective date of these Orders, Respondent shall employ RACM as required pursuant to OAC Rule 3745-17-08(B) for all masonry cutting or sawing equipment operations at any Ohio construction site located in the Appendix A areas identified in OAC Rule 3745-17-08. Such measures shall minimize or eliminate visible emissions of fugitive dust. Respondent shall maintain compliance with OAC Rule 3745-17-08(B) thereafter.

2. Respondent shall pay the amount of six thousand seven hundred dollars ($6,700) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704 in accordance with the payment schedule in Order 3.

3. Payments to Ohio EPA shall be made by official checks made payable to "Treasurer, State of Ohio" in accordance with the following schedule:

(a) eight hundred and sixty dollars ($860) by January 15, 2010;

(b) one thousand three hundred and forty dollars ($1,340) by January 15, 2010 pursuant to Order 4;

(c) two thousand two hundred dollars ($2,200) by February 15, 2010; and

(d) two thousand three hundred dollars ($2,300) by March 15, 2010.

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

4. In lieu of paying the one thousand three hundred and forty dollars ($1,340) of the civil penalty identified in Order 3(b) to Ohio EPA's general fund, Respondent shall, by January 15, 2010, fund a Supplemental Environmental Project ("SEP") by making the payment in the amount of $1,340 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for $1,340. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

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

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

6. Should Respondent fail to fund the SEP within the required time frame set forth in Order 4, Respondent shall immediately pay to Ohio EPA $1,340 of the civil penalty in accordance with the procedures in Order 3.

VI. TERMINATION

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

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

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

VII. OTHER CLAIMS

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

VIII. OTHER APPLICABLE LAWS

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

IX. MODIFICATIONS

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

X. NOTICE

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

Akron Regional Air Quality Management District
146 South High Street, Room 904
Akron, Ohio 44308
Attn: Bonetta Guyette

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
50 West Town Street, Suite 700
P.O. Box 1049
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 a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

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

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In

such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date 12/29/09

IT IS SO AGREED:

Ameriseal & Restoration, LLC,
d.b.a. Ameriseal

Signature

Date 12-22-09

ROBERT W. CAILOR
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

DEC 30 2009

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

Re: A. David Sugar, Jr.
Dave Sugar Excavating, LLC
Honey Creek Contracting Co., Inc.
Excavation Technologies, Inc.
Howland Company, LLC

Dear Mr. Cordray:

Pursuant to Section 3704.06 of the Ohio Revised Code, I hereby request that you initiate all legal and/or equitable actions against the above-referenced entities, and all other appropriate parties, and seek appropriate penalties for violations of Chapter 3704 of the Ohio Revised Code and the regulations adopted thereunder. Attached is a copy of the enforcement file for this case.

Thank you for your assistance in this matter. Any questions you may have should be directed to Muhammad Mereb of the Division of Air Pollution Control (728-1341). Muhammad Mereb and Tom Kalman (644-3598) should be kept apprised of the status of this matter and any action taken with regard to it. Please also coordinate any resolution of this matter with Jim Orlemann, DAPC Enforcement Coordinator.

Sincerely,

Chris Korleski
Director

xc: Jim Orlemann, DAPC-CO
Tom Kalman, DAPC-CO
Muhammad Mereb, DAPC-CO
Donald L. Vanterpool, Legal Office
Bruce Weinberg/Steve Lowry, DAPC-SEDO

Enclosures

CK:MM:mm

Ohio EPA
Division of Air Pollution Control

Inter-Office Communication

To: Dale Vitale, Chief, Environmental Enforcement Section, AGO

From: Jim Orlemann, DAPC Enforcement Coordinator, and Donald L. Vanterpool, Staff Attorney, Legal Office, Ohio EPA

Subject: Referral of A. David Sugar, Jr., et al. for violations of the air pollution control regulations

Date: December 23, 2009

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

The Director of Ohio EPA is referring A. David Sugar, Jr., Dave Sugar Excavating, LLC, Honey Creek Contracting Co., Inc., Excavation Technologies, Inc., and Howland Company, LLC ("Respondents") to the Attorney General's Office ("AGO") for enforcement action because two other related cases involving Respondent A. David Sugar, Jr. are already at the AGO. Draft Findings and Orders are attached for the AGO's use in preparing a consent order and complaint. The following information summarizes the key elements of this case.

SYNOPSIS

- Respondent A. David Sugar, Jr. is the owner or the incorporator of several businesses in the State of Ohio which include Respondents Dave Sugar Excavating, LLC; Honey Creek Contracting, Co., Inc.; and Excavation Technologies, Inc. Respondent Howland Company, LLC is an asbestos abatement contractor which is not owned by Mr. Sugar.

- In or before 2005, Respondent A. David Sugar, Jr. purchased the former Weirton Steel Plant that was located at 200 Slack Street, Steubenville, Jefferson County, Ohio. The former Weirton Steel plant consisted of the following buildings: the Main Plant, Boiler House, Water Treatment Plant-Building #1, Water Treatment Plant-Building #2, Pump House, Clock Office, and Administration Office. The Main Plant consists of several rooms/areas including but not limited to the following: Green Room, Conveyor and Hoist House, Scrap Storage, Cutting Lines, Annealing, Chrome and Tin Plating Lines, Machine Shop, Side Cutters, Demineralization Plant, Chromic Acid Loading, and Shipping. Mr. Sugar intended to use the facility as a warehouse; however, notifications submitted to SEDO indicated that demolition of

certain buildings would occur.

- In 2003, an asbestos survey was conducted at the former Weirton Steel Plant for the purpose of applying for financial assistance under the Clean Ohio Revitalization Fund. The City of Steubenville spent $200,000 in 2003 for the purpose of this application. Out of the 820 samples of material collected, 643 were found to be asbestos-containing material ("ACM"). The amounts of ACM include 999,000 linear feet of wire insulation, 29,809 linear feet of pipe insulation, 7,328 square feet of floor tile and mastic, 90,000 square feet of roofing material, 19,012 square feet of surface material, 15,650 square feet of insulation debris, 4,858 square feet of tank insulation, 2,762 square feet of boiler insulation, 4,492 fittings and elbows, and 4,333 gaskets. These materials were distributed in different areas of the plant. Therefore, the demolition or renovation work done the facility was subject to the notification and work practice requirements of OAC Chapter 3745-20.

- On March 13, 2005, representatives from SEDO conducted an inspection of former Weirton Steel Plant. The inspectors observed many areas where insulation had been disturbed, or removed from pipes and crushed by vehicles driving over it. They also noticed pieces of white material that appears to be pipe insulation on the floor of the building. Moreover, they took samples (12) and photos (27) of suspected ACM materials put-down, broken, and crushed at various locations in the facility by demolition employees of Respondent A. David Sugar, Jr. and/or his companies. Later analysis showed that 10 of the 12 samples contained amosite asbestos in the range of 13% to 25% and/or chrysotile asbestos in the range of 2 to 20%.

- Since 2005 the former Weirton Steel Plant has been inspected several times by representatives from SEDO, Ohio EPA Central Office, and Ohio Department of Health. Numerous violations of OAC Chapter 3745-20 have been identified and several warnings and notice of violation ("NOV") letters have been sent to Respondents.

- The violations included demolition notification, revision of the notification, and various work practice violations.

- Respondent A. David Sugar, Jr. hired three different contractors for the abatement of asbestos in different buildings at the former Weirton Steel Plant. Environmental Protection Systems, LLC was hired on 2005 for the removal of asbestos from the Green Building. Phase One Development Corporation was hired next for the abatement of asbestos from the remaining buildings except the Boiler House and the Demineralization Plant. Finally, Respondent Howland Company, LLC was hired for the abatement of asbestos from the Boiler House and the Demineralization Plant. Only Respondent Howland Company, LLC was cited with asbestos violations as the operators.

- Respondent A. David Sugar, Jr. is involved with two other cases at the AGO. Moreover, this case is being investigated by the Special Investigation Unit ("SIU") and federal authorities for criminal action.

- Ohio EPA recommends requiring A. David Sugar, Jr. to remove all the accessible RACM from the Boiler House and the Demineralization Plant before restarting any demolition work at the facility.

- A civil penalty in the amount of $102,000 was determined based on currently available information.

CIVIL PENALTY

The assessed civil penalty ($102,000) was calculated in accordance with the U.S. EPA's civil penalty policy for the demolition violation (See the attached penalty worksheet).

RECOMMENDATION

We recommend combining the violations from this case with the violations from the other two A. David Sugar, Jr. cases currently at the AGO. All of the A. David Sugar, Jr. companies have been included in the referral since it is not clear which company or companies of Mr. Sugar the employees at the work site actually worked for.

DV:JO:MM:mm

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

December 23, 2009

CERTIFIED MAIL

Mr. D. Todd Hosea,
d.b.a. Hosea Project Movers
3951 Madison Pike
Covington, Kentucky 41017

Re: Final Findings and Orders for: asbestos emission control standard violations related to the renovation of the Crosley Building at 1333 Arlington Street, Cincinnati, Ohio

Dear Mr. Hosea:

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 #14)
Stephen Feldmann, Legal Office
Tan Tran, DAPC
Kerri Castlen/Ken Wilkins/Michael Schierloh, HCDES

OHIO E.P.A.

DEC 23 2009

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Hosea Project Movers, LLC 3951 Madison Pike Covington, Kentucky 41017	: : :	Director's Final Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Hosea Project Movers, LLC ("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 Respondent's facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent, of 3951 Madison Pike, Covington, Kentucky, was the owner of a commercial building named the Crosley Building, which is located at 1333 Arlington Street, Cincinnati, Hamilton County, Ohio. The interior of the Crosley Building was ordered to be completely removed by the Cincinnati Fire Department in the middle of 2007 due to a fire hazard concern. The above-referenced building constitutes a "facility" as defined by Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(18). Respondent is an "owner or operator" as defined by OAC Rule 3745-20-01(B)(39)(a).

2. Pursuant to OAC Rule 3745-20-02(A), the owner or operator of any renovation operation shall have the affected facility or part of the facility where a renovation

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: 12.23.09

operation will occur thoroughly inspected prior to the commencement of the renovation for the presence of asbestos, including Category I and Category II nonfriable asbestos-containing material as defined in OAC Rules 3745-20-01(B)(9) and 3745-20-01(B)(10).

3. Pursuant to OAC Rule 3745-20-02(B)(1), the owner or operator of a renovation project must comply with the notification and work practice requirements of OAC Rules 3745-20-03, 3745-20-04, and 3745-20-05 if the combined amount of regulated asbestos-containing material in a facility being renovated is at least 260 linear feet on pipes or at least 160 square feet on other facility components, or at least 35 cubic feet off facility components where the length or area could not be measured previously. Regulated asbestos-containing material ("RACM") is as defined in OAC Rule 3745-20-01(B)(42). Information from the notification of renovation ("Notification") for the cleanup (after the involvement of Hamilton County Department of Environmental Services, a contractual representative of Ohio EPA in Hamilton County) indicates that an additional 2,000 square feet of RACM was to be removed, which confirms that this renovation project was subject to the notification and work practice requirements of OAC Rules 3745-20-03, 3745-20-04, and 3745-20-05.

4. On September 6, 2007, the Hamilton County Department of Environmental Services ("HCDES") conducted an inspection at Crosley Building. At this inspection, HCDES took twelve samples for analysis. Eight of them were later found to contain greater than one percent chrysotile asbestos. The following violations were documented by HCDES during its September 6, 2007 inspection and were found to be violations by the Director of Ohio EPA.

Failure to submit Notification prior to the start of renovation

5. OAC Rule 3745-20-03(A) requires, in part, the owner or operator of a subject renovation project to submit a written notice of intention to renovate ("Notification") to Ohio EPA at least ten days prior to the start of the renovation if the project is as described in OAC Rule 3745-20-02(B)(1).

6. Respondent began renovation of the Crosley Building facility on or about September 6, 2007 but failed to submit a Notification to HCDES or Ohio EPA at least ten days prior to the start of the renovation. Therefore, Respondent was in violation of OAC Rule 3745-20-02(B)(1).

Failure to completely remove RACM before any breakup of the materials

7. OAC Rule 3745-20-04(A)(1) requires, in part, the owner or operator of a subject renovation project as described in OAC Rule 3745-20-02(B)(1) to remove all RACM from a facility being renovated before any activity begins that would breakup the materials, unless as otherwise provided in that rule.

8. Respondent began renovation activity that disturbed RACM without first removing the RACM and asbestos-containing waste material was observed scattered on floors 2 through 6 during the inspection by HCDES on September 6, 2007. Therefore, Respondent was in violation of OAC Rule 3745-20-04(A)(1).

Failure to adequately maintain RACM in wetted condition until collected for disposal

9. OAC Rule 3745-20-04(A)(6)(a) requires, in part, the owner or operator of a subject renovation project to maintain removed or stripped friable asbestos materials in a wetted condition until the materials are collected for disposal.

10. During Respondent's renovation of the Crosley Building facility on at least September 6, 2007, RACM debris, on floors 2 through 6, was in a dry condition at the time of HCDES's September 6, 2007 inspection, Respondent failed to maintain removed friable asbestos materials in a wetted condition until the materials were collected for disposal and was in violation of OAC Rule 3745-20-04(A)(6)(a).

Failure to seal all asbestos-containing waste material while wet in durable leak-tight containers

11. OAC Rule 3745-20-05(B)(1)(c) requires, in part, the owner or operator of a renovation project, where the selected control method is wetting, to seal all asbestos-containing waste material while wet in durable leak-tight containers or wrapping that complies with OAC Rule 3745-20-05(C).

12. During Respondent's renovation of the Crosley Building facility on at least September 6, 2007, RACM debris, on floors 2 through 6, were not maintained in wetted condition and sealed in durable leak-tight containers. Therefore, on at least September 6, 2007, Respondent was in violation of OAC Rule 3745-20-05(B)(1)(c).

Failure to comply with the labeling requirements

13. OAC Rule 3745-20-05(C)(1) requires, in part, the owner or operator of a subject renovation project to comply with the minimum standards for labeling of asbestos waste containers.

14. Dumpsters and RACM debris were not bagged and labeled in accordance with the labeling requirements at the time of HCDES's September 6, 2007 inspection. Therefore, Respondent was in violation of OAC Rule 3745-20-05(C)(1).

Violations of ORC § 3704.05(G)

15. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704. OAC Chapter 3745-20 was adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704.

16. The OAC violations cited in the above findings also constitute violations of ORC § 3704.05(G).

17. On September 18, 2007, HCDES issued a notice of violation letter to Respondent for the violations that were documented during its inspection of the site on September 6, 2007.

18. Between October 8, 2007 and November 12, 2007, Environmental Demolition Group, an asbestos abatement contractor hired by Respondent, conducted the removal of remaining RACM and cleanup of the asbestos-containing waste material.

19. On November 14, 2007, HCDES visited the site as the final walk through for the cleanup of the remaining ACM of the Crosley Building. At this inspection, HCDES observed that the removal of remaining RACM and the cleanup were done in compliance with OAC Chapter 3745-20.

20. 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:

Respondent shall pay the amount of twenty-two thousand dollars ($22,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC § 3704.06. Within thirty (30) days after the effective date of these Orders, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $4,400 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). For the remaining seventeen thousand and six hundred dollars of the penalty, Respondent shall pay Ohio EPA in accordance with the following payment schedule:

- Four thousand and four hundred dollars ($4,400) due within ninety (90) days after the effective date of these Orders;
- Four thousand and four hundred dollars ($4,400) due within one hundred and eighty (180) days after the effective date of these Orders;
- Four thousand and four hundred dollars ($4,400) due within two hundred and seventy (270) days after the effective date of these Orders; and
- Four thousand and four hundred dollars ($4,400) due within three hundred and sixty (360) days after the effective date of these Orders.

Payments shall be made by official checks made payable to "Treasurer, State of Ohio." 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

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

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

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the 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 of 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 renovation of this 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:

Hamilton County Department of Environmental Services
250 William Howard Taft Road
Cincinnati, Ohio 45219
Attention: Ken Wilkins

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
50 West Town Street, Suite 700
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.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specially 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

12/21/09
Date

IT IS SO AGREED:

Hosea Project Movers, LLC

Signature

12/7/09
Date

D. Todd Hosea
Printed or typed name

V.P.
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

DEC 23 2009

CERTIFIED MAIL

Mr. Randy Wise
10515 County Road 12
Wauseon, Ohio 43567

Re: Unilateral Director's Final Findings and Orders for the violation on November 5, 2008, of OAC Chapter 3745-19 for open burning at 10515 County Road 12, Pike Township, Fulton County, Ohio

Dear Mr. Wise:

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
Mark Budge/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.
DEC 23 2009
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Randy Wise 10600 County Road 12 Wauseon, Ohio 4356	: : :	**Director's Final Findings and Orders**

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Randy Wise ("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 10515 County Road 12, Pike Township, Fulton 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.

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: 12.23.09

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 2000 census, the City of Wauseon, a municipal corporation in Fulton County, has a population of 7,091. Therefore, any area extending one thousand feet beyond the boundaries of such a municipal corporation is in a restricted area. Respondent's property at 10515 County Road 12, Pike Township, Fulton County, is over one thousand feet outside of Wauseon's city limits and, therefore, 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 burning landscape waste and tires in the manner conducted by Respondent.

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 November 5, 2008, Respondent conducted open burning of brush and approximately 20 to 30 tires at 10515 County Road 12, Pike Township, Fulton County, in violation of OAC Rule 3745-19-04(A) and ORC § 3704.05(G).

8. On December 4, 2008, 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 November 5, 2008, occurred at 10515 County Road 12, 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: Tom Sattler

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

12/22/09
Date

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

DEC 3 0 2009

CERTIFIED MAIL

Ms. Kendra S. Sherman, Esq.
Squire, Sanders & Dempsey, L.L.P.
2000 Huntington Center
41 South High Street
Columbus, Ohio 43215

Re: Final Findings and Orders for: Title V permit violations at Republic Engineered Products, Inc.'s Lorain, Ohio facility

Dear Ms. Sherman:

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
Jim Kavalec, DAPC
Tim Fischer/Tony Becker, NEDO
Noel Huettich, REP

OHIO E.P.A.

DEC 30 2009

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Republic Engineered Products, Inc.	:	**Director's Final Findings**
1807 E. 28th Street	:	**and Orders**
Lorain, Ohio 44055	:	

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: 12/30/09

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

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

II. PARTIES BOUND

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

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates an integrated steel plant located at 1807 E. 28th Street, Lorain, Lorain County, Ohio ("Facility"). On May 30, 2003, a Title V permit (02-47-08-0229) was issued to Respondent for the Facility pursuant to Ohio Administrative Code ("OAC") Chapter 3745-77. The Title V permit establishes terms and conditions under which the emissions units ("EUs") at the Facility are to be operated in order to ensure compliance with state and federal air pollution control laws and regulations. The Title V permit expired on June 20, 2008; however; its requirements remain in effect pursuant to OAC Rule 3745-77-08(E)(1) until a renewal Title V permit is issued by Ohio EPA. A renewal permit application was timely submitted by Respondent to Ohio EPA on December 20, 2007.

2. Respondent's Title V permit, in part, establishes emission limitations, operational controls and reporting requirements for the bloom reheat furnace, which is identified by Ohio EPA as EU P081 and has a heat input capacity 421.6 million British thermal units per hour ("MMBtu/hr"). Specifically, Part III.A.I.1. of the terms and conditions of the Title V permit establishes a nitrogen oxide ("NOx") emissions limitation of 0.132 pound of NOx per million British thermal units ("lb/MMBtu"). In addition, Part III.A.V.1.a. of the terms and conditions of the Title V permit requires Respondent to conduct an annual emission test for EU P081 in order to demonstrate compliance with allowable mass emission for NOx. EU P081 is an "air contaminant source" as defined in OAC Rule 3745-15-01(C) and (W). EU P081 is equipped with low NOx burners.

3. On November 13, 2007, Respondent conducted the 2007 annual emission test for EU P081. The average emissions of NOx based on these three, one-hour test runs was 0.141 lb/MMBtu, in violation of Part III.A.I.1. of the terms and conditions of the Title V permit and ORC § 3704.05(J)(2). On December 20, 2007 and February 6, 2008, Respondent tried to conduct retests of EU P081 but cancelled the retests both times because preliminary data indicated high emissions readings for NOx. On January 21, 2008, Respondent submitted, to Ohio EPA, a compliance plan. By letters dated January 2, 2008 and March 12, 2008, Ohio EPA notified Respondent of the continued violations of the NOx emission limitation for EU P081.

4. By April 8, 2008, Respondent made all necessary repairs to EU P081 and conducted and passed a retest. The average emissions of NOx based on these three, one-hour test runs was 0.044 lb/MMBtu. Respondent was in violation of Part III.A.I.1. of the terms and conditions of the Title V permit and ORC § 3704.05(J)(2) from November 13, 2007 until April 8, 2008. By letter dated June 17, 2008, Ohio EPA issued a return to compliance letter to Respondent for this Facility.

5. On November 12, 2008, Respondent conducted the 2008 annual emission test for EU P081. The average emissions of NOx based on these three, one-hour test runs was 0.230 lb/MMBtu, in violation of Part III.A.I.1. of the terms and conditions of the Title V permit and ORC § 3704.05(J)(2). By December 19, 2008, Respondent made all necessary repairs to EU P081 and conducted a retest. The results of the retest were 0.065, 0.068 and 0.056 lb/MMBtu. The average emissions of NOx based on these three, one-hour test runs was 0.063 lb/MMBtu. Respondent was in violation of Part III.A.I.1. of the terms and conditions of the Title V permit and ORC § 3704.05(J)(2) from November 12, 2008 until December 19, 2008. By letter dated April 17, 2009, Ohio EPA issued a return to compliance letter to Respondent for this Facility.

6. 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. Respondent shall pay the amount of thirty thousand six hundred dollars ($30,600) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within forty-five (45) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for twenty-four thousand four hundred and eighty dollars ($24,480) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

2. In lieu of paying the remaining six thousand one hundred and twenty dollars ($6,120) of the civil penalty, Respondent shall, within forty-five (45) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $6,120 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for $6,120. 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.

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

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

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA $6,120 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the 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, operations of Respondent.

VIII. OTHER APPLICABLE LAWS

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

IX. MODIFICATIONS

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

X. NOTICE

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

Ohio Environmental Protection Agency
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: Dennis Bush

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 1049
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 a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

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

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date 12/29/09

IT IS SO AGREED:

Republic Engineered Products, Inc.

Signature

Date 12/18/09

AMAN BHATIA
Printed or Typed Name

Director of Operations
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

December 21, 2009

CERTIFIED MAIL

Mr. James L. McIntosh,
President
EI Ceramics, LLC.
2600 Commerce Blvd.
Cincinnati, Ohio 45241

Re: Final Findings and Orders for:
air pollution control permit violations at
EI Ceramics, LLC. in Cincinnati, Ohio

Dear Mr. McIntosh:

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,

Thomas J. Kalman for

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 #14)
Stephen Feldmann, Legal Office
Jim Kavalec, DAPC
Kerri Castlen/Chris Boss/Aaron Morgan, HCDES

OHIO E.P.A.

DEC 21 2009

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

El Ceramics, LLC. **2600 Commerce Blvd.** **Cincinnati, Ohio 45241**	: : :	**Director's Final Findings and Orders**

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to El Ceramics, LLC. ("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 Respondent shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a facility (Facility ID 1431404130) located at 2600 Commerce Blvd., Cincinnati, Hamilton County, Ohio ("Facility"). At the Facility, Respondent manufactures ceramic parts that are used in the steel industry.

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

3. On November 19, 2002, Ohio EPA issued permit-to-install ("PTI") 14-05345 for a mixing process; blending, pressing, glazing and curing process; and a kiln, which are identified by Ohio EPA as emissions units ("EUs") P001, P002 and P003,

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: 12.21.09

respectively. On May 27, 2008, Ohio EPA issued permits-to-operate ("PTOs") for EUs P001, P002 and P003. The terms and conditions of PTI 14-05345 and the PTOs contain applicable emission limitations and operational control and reporting requirements for EUs P001, P002 and P003. EU P001 is controlled by a thermal oxidizer to control organic compound ("OC") emissions. EU P002 is controlled by a fabric filter to control particulate emissions and a thermal oxidizer to control OC emissions. EU P003 is controlled by a thermal oxidizer to control OC emissions. The emissions units listed in PTI 14-05345 and the PTOs are "air contaminant sources" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X).

4. On June 21, 2005, Ohio EPA issued PTI 14-05702 for kiln #2 and curing oven #2, which are identified by Ohio EPA as EUs P004 and P005. On May 19, 2008, Ohio EPA issued PTOs for EUs P004 and P005. The terms and conditions of PTI 14-05702 and the PTOs contain applicable emission limitations and operational control and reporting requirements for EUs P004 and P005. EUs P004 and P005 are controlled by thermal oxidizers to control OC emissions. EU P005 is controlled by the same thermal oxidizer as EU P002. The emissions units listed in PTI 14-05702 and the PTOs are "air contaminant sources" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X).

5. On March 11, 2008, HCDOES conducted a compliance inspection at the Facility. As a result of this inspection, HCDOES determined that Respondent had, *inter alia:*

a. For EUs P001, P002, P003, P004 and P005, from April 30, 2005, (the date that the 1st quarterly deviation report for 2005 was due) until March 11, 2008, a total of 1046 days, Respondent failed to submit the annual emissions reports and the quarterly deviation reports for the years 2005, 2006 and 2007, in violation of the terms and conditions of PTI 14-05345, PTI 14-05702 and ORC § 3704.05(C). Respondent provided the annual emissions reports and the quarterly deviation reports for the years 2005, 2006 and 2007 to HCDOES at the time of the inspection;

b. For EU P001, from November 19, 2002 until March 24, 2008, a total of 278 days, Respondent failed to record the pressure drop across the fabric filter on a weekly basis, in violation of Section C.1. of the terms and conditions of PTI 14-05345 and ORC § 3704.05(C);

c. For EU P001, from November 19, 2002 until March 11, 2008, a total of 1938 days, Respondent failed to operate and maintain a continuous temperature monitor and recorder for the thermal oxidizer, in violation of Section C.2. of the terms and conditions of PTI 14-05345 and ORC § 3704.05(C). At the time of the inspection, Respondent made the necessary adjustments to ensure the monitor and recorder were continuously running;

d. For EU P002, the average combustion temperature for the thermal oxidizer, for any 3-hour block of time when EU P002 is in operation, shall not be less than 1450 degrees Fahrenheit. For 55 percent of the operating time between November 19, 2002 and March 11, 2008, Respondent failed to keep the average combustion temperature of the thermal oxidizer at no less than 1450 degrees Fahrenheit, in violation of Section B.2. of the terms and conditions of PTI 14-05345 and ORC § 3704.05(C);

e. For EU P002, Respondent exceeded the annual OC emissions rate of 11.0 tons per year ("TPY") for the years 2006 and 2007, in violation of Section A.1. of the terms and conditions of PTI 14-05345 and ORC § 3704.05(C). Specifically, the annual OC emissions for 2006 and 2007 were 16.2 TPY and 20.0 TPY, respectively;

f. For EU P002, Respondent exceeded the monthly OC emissions rate of 0.92 ton per month ("TPM") for 23 months between June of 2005 and March of 2008, in violation of Section A.1. of the terms and conditions of PTI 14-05345 and ORC § 3704.05(C);

g. For EU P003, the average combustion temperature for the thermal oxidizer, for any 3-hour block of time when EU P003 is in operation, shall not be more than 50 degrees Fahrenheit below the average temperature during the most recent emissions test that demonstrated the emissions unit was in compliance. Based upon the October 2003 stack test, the average temperature is 1,335 degrees Fahrenheit. For 3 percent of the operating time between October of 2003 and March 11, 2008, Respondent failed to operate under this temperature designation, in violation of Section B.1. of the terms and conditions of PTI 14-05345 and ORC § 3704.05(C);

h. For EU P004, the average combustion temperature for the thermal oxidizer, for any 3-hour block of time when EU P004 is in operation, shall not be more than 50 degrees Fahrenheit below the average temperature during the most recent emissions test that demonstrated the emissions unit was in compliance. Based upon the October 2006 stack test, the average temperature is 1,395 degrees Fahrenheit. For 8.7 percent of the operating time between October 2006 and March 11, 2008, Respondent failed to operate under this temperature designation, in violation of Section B.1. of the terms and conditions of PTI 14-05702 and ORC § 3704.05(C);

i. For EU P005, the average combustion temperature for the thermal oxidizer, for any 3-hour block of time when EU P005 is in operation, shall not be less than 1450 degrees Fahrenheit. For 79 percent of the operating time between June 21, 2005 and March 11, 2008, Respondent failed to keep the average combustion temperature of the thermal oxidizer at no less than 1450 degrees Fahrenheit, in violation of Section B.1. of the terms and conditions of PTI 14-05702 and ORC § 3704.05(C);

j. For EU P005, Respondent exceeded the annual OC emissions rate of 11.0 TPY for the years 2006 and 2007, in violation of Section A.1. of the terms and conditions of PTI 14-05702 and ORC § 3704.05(C). Specifically, the annual OC emissions for 2006 and 2007 were 13.0 TPY and 24.4 TPY, respectively; and

k. For EU P005, Respondent exceeded the monthly OC emissions rate of 0.92 TPM for 21 months between May of 2006 and March of 2008, in violation of Section A.1. of the terms and conditions of PTI 14-05702 and ORC § 3704.05(C).

6. HCDOES notified Respondent of the violations referenced in Finding No. 5 of these Orders in letters dated March 26 and May 20, 2008.

7. On April 24, 2008, Respondent submitted a compliance plan to HCDOES and, on May 30, 2008, Respondent installed an interlocking system on all emissions units to prevent operation of the thermal oxidizers if temperatures were to fall below permitted limits.

8. On August 19, 2008, HCDOES conducted a compliance inspection at the Facility. As a result of this inspection, HCDOES determined that all emissions units were in compliance with the terms and conditions of the PTOs, PTI 14-05345, PTI 14-05702.

9. 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. Respondent shall pay the amount of seventy-eight thousand seven hundred dollars ($78,700) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for sixty-two thousand nine hundred and sixty dollars ($62,960) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

2. In lieu of paying the remaining fifteen thousand seven hundred and forty dollars ($15,740) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $15,740 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for $15,740. 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.

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

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

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA $15,740 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

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

VII. OTHER CLAIMS

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

VIII. OTHER APPLICABLE LAWS

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

IX. MODIFICATIONS

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

X. NOTICE

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

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

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 1049
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 a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

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

either in law or equity.

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

12-17-09
Date

AGREED:

El Ceramics, LLC.

Signature

12/16/09
Date

JAMES L. McINTOSH
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

DEC 2 2 2009

CERTIFIED MAIL

Mr. Robert Schiekh
1145 Raymill Road
Holland, Ohio 43528

RE: Director's Final Findings and Orders for Violations of OAC Rule 3745-19-03

Dear Mr. Schiekh:

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

These Orders are being issued pursuant to Ohio Administrative Code ("OAC") Rule 3745-19-06(A) which states that the Director of Ohio EPA 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. 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 notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. 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
309 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 & Enforcement Section

JAO/ey

Enclosure

xc: Carol Hester, PIC
Marc Glasgow, Legal Office
Brenda Case, Fiscal Office (Agency #04)
Priscilla Roberson, DAPC
Eric Yates, DAPC
John Paulian, DAPC
Lynn Pedro, Toledo
Chief Cousino, Springfield Township Fire Department

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.
DEC 22 2009
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

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.

Mr. Robert Schiekh
1145 Raymill Road
Holland, Ohio, 43528

Director's Final Findings and Orders

By: _____ Date: 12.22.09

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Mr. Robert Schiekh ("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 has determined the following findings:

1. Respondent owns property located at 1145 Raymill Road in Holland, Ohio. The property is located in a "restricted area" as defined in Ohio Administrative Code ("OAC") Rule 3745-19-01(J).

2. OAC Rule 3745-19-03(A) prohibits "open burning," as defined in OAC Rule 3745-19-01(H), in a restricted area except as otherwise provided in OAC Rule 3745-19-03(B) and (C) and ORC § 3704.11. The provisions of OAC Rule 3745-19-03(B) and (C) and ORC § 3704.11 do not provide for the open burning of trash or demolition debris in a restricted area.

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

4. On at least July 5, 6, and 28, 2009, members of the Springfield Township Fire Department responded to open burning events at Respondent's property and observed

Respondent open burning waste material.

5. Open burning of such waste material is prohibited by rule, and the open burning was not otherwise exempted from the prohibition of OAC Rule 3745-19-03(A).

6. Based on the above Findings, the Director of Ohio EPA finds that on July 5, 6, and 28, 2009, Respondent violated the following ORC law and OAC rule:

- ORC § 3704.05(G), for violating a rule the Director adopted under ORC Chapter 3704; and
- OAC Rule 3745-19-03(A) which prohibits the open burning for waste disposal.

7. On August 20, 2009, a notice of violation letter was sent to Respondent for open burning violations.

8. OAC Rule 3745-19-06(A) states that the Director of Ohio EPA 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.

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 the 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.

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 the 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 achieve compliance with the requirements of OAC Chapter 3745-19 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 seven hundred fifty dollars ($750) 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 $750. 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

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

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

VI. TERMINATION

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

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 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.

IX. 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

12/21/09
Date

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

DEC 3 0 2009

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

Re: Referral of Cemex, Inc. for the Air Violations at the Portland Cement Manufacturing Facility Located at 3250 Linebaugh Road, Xenia, Greene County, Ohio

Dear Mr. Cordray:

I request that you represent Ohio EPA as a party in resolving the joint USEPA and Ohio EPA's enforcement case against Cemex, Inc. ("Cemex") for violations of the requirements of the New Source Review ("NSR"), Prevention of Significant Deterioration ("PSD"), and Title V permit programs.

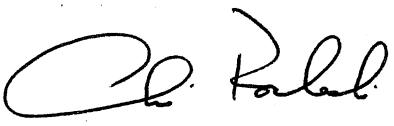
To resolve these violations, USEPA is proposing the use of a Consent Decree. In the draft Consent Decree, USEPA cites violations of the following federal requirements: New Source Review requirements at Part C of Title I of the Clean Air Act ("CAA"), Title V permit requirement at Section 504 of the CAA, and the regulations promulgated thereunder. USEPA also alleges that Cemex has violated the State Implementation Plans ("SIPs") that contain the above federal requirements.

The Consent Decree is in the process of being finalized. It will require CEMEX to achieve compliance with applicable state and federal air pollution control requirements, pay civil penalties, and possibly implement SEP projects. Ohio EPA has been actively involved in the settlement discussions and concurs with the provisions contained in the draft Consent Decree. (A nearly final version of the Consent Decree is attached for your reference as well an Inter-Office Communication to Dale Vitale of your office with a short synopsis of the violations.)

Thank you for your assistance in this matter. Any questions you may have should be directed to Patty Porter (644-3695) or Tom Kalman (644-3598) of the Division of Air Pollution Control's ("DAPC") Enforcement Section. Please also keep Jim Orlemann (644-3592), DAPC's Enforcement Coordinator, apprised of the status of this matter and any

action taken with regard to it.

Sincerely,



Chris Korleski
Director

xc: Jim Orlemann, DAPC
Bryan Zima, Legal Office
Jennifer Marsee, RAPCA
Tom Kalman, DAPC
Patty Porter, DAPC
Lynne Martz, DAPC

Enclosures

CK/PP/pp

Ohio EPA
Division of Air Pollution Control

Inter-Office Communication

To:	Dale Vitale, Chief, Environmental Enforcement Section, Attorney General's Office
From:	Jim Orlemann, DAPC Enforcement Coordinator; Bryan Zima, Air Supervising Attorney, Legal Office
Subject:	Recommendation to Refer Cemex, Inc. to the Attorney General's Office Regarding the Portland Cement Manufacturing Facility Located in Xenia, Greene County, Ohio
Date:	December 27, 2009

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

The Director of Ohio EPA is requesting the Attorney General of Ohio to represent Ohio EPA as a party in all legal and/or civil actions in the joint USEPA and Ohio EPA's enforcement case against Cemex, Inc. A copy of the draft Consent Decree is attached. The following summarizes the key elements of the case.

Background:

The violations alleged in the draft Consent Decree are for noncompliance with the requirements of the New Source Review ("NSR") and Title V permit programs. Specifically, Cemex, Inc. allegedly violated the requirements of NSR by failing to apply for and obtain a Prevention of Significant Deterioration ("PSD") permit and failing to install and operate control equipment capable of achieving and maintaining compliance with the best available control technical ("BACT") emission limitations. Cemex also failed to comply with the Title V permit requirements by not timely submitting an application that included the NSR requirements.

Cemex, Inc. operates a cement plant ("facility") located at 3250 Linebaugh Road, Xenia, Ohio. Prior to Cemex, Inc. acquiring the facility in 2000, the facility was owned and operated by Southdown, Inc. The facility is classified as a "major source" for Title V and the PSD regulations in Ohio Administrative Code ("OAC") Chapters 3745-77 and 3745-31, respectively, and in the mirrored federal regulations (i.e., Part 70 and 40 C.F.R. § 52.21,

respectively). At the time of the violations, Ohio EPA did not have a separate PSD program; however, Ohio's authority to implement and enforce the federal PSD program was incorporated into the Ohio SIP.

Cement is produced at the facility though the following processes: quarrying of raw materials, the crushing of raw materials, the grinding and mixing of raw materials, the heating of raw materials in a pre-heater kiln to produce clinker, the cooling of clinker in a clinker cooler, and the mixing of clinker with other materials at a finish grinding system. In or about 1996 or 1997, Southdown, Inc., the owner at the time, started a modernization and expansion project of the existing "grandfathered PSD" facility. The modernization project was designed to increase clinker production and kiln utilization. It involved a variety of construction activities, including, the replacement of the existing finish grinding system with a new finish grinding system; the construction of new facilities for clinker and cement storage; modification of the clinker cooler; and improvements to the kiln, including the installation of a new pre-heater induced draft fan. The project resulted in significant net increases in NO_x and SO_2; and a significant increase in PM and PM_{10} ($PM_{2.5}$ rules were not promulgated at this time; therefore, they are not applicable). These changes are estimated to have increased the potential-to-emit ("PTE") of NO_x from 1,642 tons per year (the preconstruction 1995 and 1996 average actual emissions referred to as "baseline emission rate") to 2,043 tons per year (i.e., 401 tons per year increase in the PTE of NO_x). Similarly, the PTE of SO_2 increased from 337 tons per year of actual baseline emissions to 420 tons per year. More importantly, based on 2003 reported actual emissions, NO_x and SO_2 actual annual emission rates increased 284 tons and 59 tons, respectively, over the baseline emission rates. The significant increases in PM and PM_{10} were determined to be below the "significant *net* emission increase" thresholds due to decreases associated with replacement of finishing grinding mill (i.e., PM and PM_{10} increases associated the physical changes netted out of PSD requirements).

The significant net emission increases in NO_x and SO_2 constitute~~s~~ a "major modification" within the meaning of the PSD regulations. The PSD regulation prohibits the start of actual construction of a major modification without obtaining a valid PSD permit which states that the source or modification will meet all of requirements of the PSD permit program. This includes, but not limited to, the requirement to perform an analysis of source impacts, perform air quality modeling and analysis, apply BACT, and allow for meaningful public participation in the process. Cemex, Inc. failed to apply for and obtain a preconstruction PSD permit prior to the start of construction and failed, among other things, to install and comply with BACT emission limitations as required by the applicable NSR program. The violations occurred from the start of construction (i.e., in or around 1996 or 1997) and are ongoing.

On or about July 1, 1996, Southdown submitted a Title V permit application that did not identify the PSD regulations as applicable requirements. On or about 1998, construction was completed and commencement of operation of the modified facility started. In January

2004, Ohio EPA issued a Title V permit to Cemex, Inc. In accordance with the Title V permit regulations, a source required to have a preconstruction PSD permit is required to submit a Title V permit application within twelve months after commencing operation. The Title V regulations also require a source to supplement a pending Title V permit application as necessary to include applicable requirements and to certify the compliance status of all applicable requirements. The requirements of the PSD program are defined as applicable requirements. Cemex, Inc. failed to timely submit a Title V application or to supplement its pending Title V permit application with the PSD requirements. Similarly, Cemex, Inc. failed to certify the "non-compliance" status of the modified facility and to include a compliance schedule to return the modified facility to compliance. These violations occurred from at least 12 months after Cemex, Inc. commenced operation of the modified facility (i.e., on or about 1999) and ~~is~~ are ongoing.

The Consent Decree:

Entry of the Consent Decree will resolve all civil liabilities for violations of the applicable NSR/PSD regulations and the Title V permit program resulting from the modification. Additional alleged violations contained in the Consent Decree are for violations of State Implementation Plans ("SIPs") that implement the PSD federal requirements, and the SIP permitting programs for construction and operation of new and modified stationary sources of air pollution.

Control Requirements in the Consent Decree:

Although negotiations are continuing to finalize the Consent Decree, Cemex will be required to: install and operate control equipment to reduce the NO_x and SO_2 emissions generated by the cement kiln; ~~to~~ make process and/or operational changes to reduce the emissions of SO_2 and NO_x; and ~~to~~ install and operate continuous emission monitoring systems ("CEMS") to assure compliance with NO_x and SO_2 BACT limitations. The exact BACT limitation for NOx will be established by a "test-and-set" procedure outlined in the Consent Decree. The following is a short synopsis of the control requirements as they now stand:

- Cemex, Inc. will be required to install, within 180 days following the effective date of Consent Decree, a Lime Spray Absorber ("LSA") at the alkali bypass stack ("bypass") of the kiln to reduce SO_2 emissions. Beginning 210 days following the effective date of Consent Decree, Cemex, Inc. will be required to comply with a BACT SO_2 emission limitation expressed in pounds of SO_2 per ton of clinker produced. The limit will be based on a rolling, 30 operating day (i.e., any day that raw materials are fed into the kiln or clinker is produced) period. Although the limit is still being negotiated, the limit is expected to be 1.1 pounds of SO_2 per ton of clinker and includes the emissions from both the main and bypass stacks.

- Cemex, Inc. will install, certify and operate NO_x and SO_2 CEMs and data acquisition systems at both the main stack and the bypass stack of the kiln within 90 days of the lodging of the Consent Decree. The CEMs will be used to determine the background emissions (i.e., emissions before the installation of the control equipment) and the emissions after the installation of the required control systems.

- Within 180 days following the effective date of the Consent Decree, Cemex, Inc. is required to complete a "NO_x Emission Reduction Study" and submit a report to EPA identifying NO_x emission reduction measures to be undertaken at the facility prior to the installation of the NO_x control equipment. (See Appendix A of the attached draft Consent Decree for more details.) The control measures will be completed in accordance the USEPA approved schedule and are required to be installed prior to installation of NO_x control equipment.

- Cemex, Inc. will be required to install and operate a selective non-catalytic reduction (SNCR) system to reduce NO_x emissions from the main stack of the kiln by no later than July 1, 2011 or 18 months after the effective date of the Consent Decree, whichever date is later. Within 90 operating days following the commencement of operation (i.e., introduction of the reagent) of the SNCR, Cemex, Inc. will be required to complete the optimization of the SNCR (see Appendix B of the attached draft Consent Decree for more details) and submit a report to USEPA for approval.

- The first 365 operating days (i.e., the "NO_x Demonstration Period") following approval of the optimization report, Cemex, Inc. will be required to operate the SNCR, in conjunction with the implemented process and/or operational NO_x control measures, with a goal to achieve and maintain a rolling 30 operating day emission rate of no greater than 1.85 pounds of NO_x per ton of clinker. This limit will be achieved and maintained if 99 percent of the "operating days" during the "NO_x Demonstration Period" meets or is below this emission rate. Thirty days following the NO_x Demonstration Period, Cemex, Inc. has the option to submit a demonstration, for USEPA's approval, supporting the kiln's inability to achieve and maintain the NO_x "goal" emission limitation and proposing an "Alternate NO_x Emission limit." The Alternative NO_x Emission Limit can not exceed 3.11 pounds of NO_x per ton of clinker produced. Under certain specified circumstances, the Consent Decree allows for a longer or shorter NOx Demonstration Period.

- Cemex, Inc. is also required to install and operate an ammonia injection monitoring system to measure the volumetric injection rate of 100 percent ammonia used by SNCR system. Additionally, Cemex, Inc. is required to install in the kiln's main stack an ammonia analyzer system to measure ammonia before and after the SNCR system.

- Cemex, Inc. is also required to timely submit appropriate permit applications associated with the above requirements and violations identified in the Consent Decree.

Civil Penalty and SEP Requirements in the Consent Decree:

The civil penalty is still being negotiated but is expected to be over seven figures with a percentage being paid to the Ohio EPA. Twenty percent of Ohio EPA's proportion will be contributed to Ohio EPA's Clean Diesel School Bus Program Fund. At this time, Cemex, Inc. has not proposed any supplemental environment projects in lieu of payment of a portion of the civil penalty.

Recommendation:

Negotiations associated with the Consent Decree have been going on for several months. USEPA has informed us that the attached draft Consent Decree is very close to being final and could be signed by the company in the near future. We are recommending that your office represent Ohio EPA in this enforcement case by filing the necessary documents and being a signatory to the Consent Decree.

Please contact one of us if you have any questions.

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

*** * * CERTIFIED MAIL * * ***

DEC 23 2009

Tom Mirante
Assistant Superintendent
City of Youngstown, Wastewater Treatment Plant
725 Poland Avenue
Youngstown, Ohio 44502-2026

Re: Proposed Director's Final Findings and Orders for Air Pollution Control Law and Rule Violations Concerning City of Youngstown, Wastewater Treatment Plant

Dear Mr. Mirante:

My staff has informed me of the Ohio Risk Management Plan ("RMP") violations that have occurred at the City of Youngstown, Wastewater Treatment Plant in Youngstown, Ohio. It is my understanding that the City of Youngstown, Wastewater Treatment Plant failed to correct deficiencies discovered during your July 23, 2009 RMP inspection and failed to submit an RMP, in violation of OAC Rule 3745-104-49(B)(1).

Enclosed is a copy of the proposed Findings and Orders prepared by my staff to resolve the violations associated with the failure to implement a complete RMP prevention program and submit an RMP in June of 2009. The Findings and Orders also include a settlement of claims for civil penalties and Orders to correct the deficiencies and submit the complete RMP program. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Because this letter and accompanying document summarize a proposed settlement, I consider them to be inadmissable by the City of Youngstown for any purpose in any enforcement action which may be taken by the State if we are unable to reach agreement on these Findings and Orders.

Please note that the proposed Findings and Orders include a voluntary provision for 20 percent of the total civil penalty amount to be directed to the funding of a supplemental environmentally beneficial project. The project involves diverting 20 percent of the total civil penalty amount to funding an Ohio EPA program for the retrofitting of school buses with control equipment to reduce diesel particulate emissions. This has the primary benefits of reducing children's exposure to harmful diesel exhaust emissions and helping attain the National Ambient Air Quality Standards. Information regarding this program is enclosed.

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

I hope that the City of Youngstown 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: Marcus Glasgow, Legal Office
Tom Kalman, DAPC
Jim Orlemann, DAPC
Sherri Swihart, DAPC
Kara Philibin, DAPC

Enclosures

CK/sas

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

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

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

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

   a. For the children who ride buses, it will reduce their exposure to the harmful diesel exhaust emissions. Children are more susceptible to air pollution than healthy adults because their respiratory systems are still developing and they have a faster breathing rate.

   b. It will help in attaining the National Ambient Air Quality Standards for PM 2.5 in Ohio's nonattainment counties.

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

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

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

b. **Crankcase filtration systems** allow a diesel engine's crankcase to be closed and use an air filter to trap blow-by aerosols consisting mainly of oil droplets, with some carbon and traces of wear debris and PM10. Blow-by gas emissions can be as much as 25% of the total emissions from a diesel engine. The crankcase filter must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first. Crankcase filters are inexpensive (a replacement element typically costs less than $50.00) and are best used in conjunction with some type of filtration system in the exhaust stream.

c. **Diesel oxidation catalysts** are devices that use a chemical process to break down pollutants in the exhaust stream into less harmful components. Diesel oxidation catalysts can reduce emissions of particulates by 20 percent, hydrocarbons by 50 percent, and carbon monoxide by 40 percent. Oxidation catalysts cost $600 to $2,000 and can be used with regular diesel fuel.

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

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

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

a. The school bus must be equipped with a diesel engine.

b. The school bus must have a gross vehicle rating of 19,500 pounds or more (Types C & D).

c. The school bus must be in operation at least 4 days per week during the school year and travel at least 10,000 miles per year.

d. The school bus model year must be 1994 or newer.

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

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

http//www.epa.gov/otag/retrofit/retroverfiedlist.htm.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BEFORE THE OHIO

ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

City of Youngstown Wastewater Treatment Plant 725 Poland Avenue Youngstown, Ohio 44502-2026	: :	Directors Final Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the City of Youngstown, Wastewater Treatment Plant ("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 is a municipal corporation that owns the Wastewater Treatment Plant located at 725 Poland Avenue in Youngstown, Ohio. Chlorine and sulfur dioxide are used in the chlorination process. Chlorine is stored in one-ton cylinders with up to twelve cylinders on site at any one time (24,000 pounds). Sulfur dioxide is stored in one-ton cylinders with up three cylinders on site at any one time (6,000 pounds). Respondent has more than a threshold quantity of a "regulated substance," namely chlorine and sulfur dioxide, as defined in OAC Rule 3745-104-01. The Risk Management Plan ("RMP") threshold amount for chlorine and sulfur dioxide, respectively, is 2,500 pounds and 5,000 pounds.

2. Chlorine and sulfur dioxide are regulated substances 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. Chlorine has a threshold of 2,500 pounds and sulfur dioxide has a threshold of 5,000 pounds. Respondent stores both chlorine and sulfur dioxide in the amounts that exceed the thresholds 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. An initial RMP audit was conducted on April 30, 2004. Eleven deficiencies were discovered during the audit. In response to the May 13, 2004 deficiency letter, the facility corrected six of the eleven deficiencies. A warning letter was sent on July 28, 2004 to correct the remaining deficiencies. A completion letter indicating that the remaining deficiencies were corrected was mailed on August 23, 2004.

5. On July 23, 2009, the Ohio EPA conducted the second five-year RMP audit at Respondent's facility and discovered eight violations of the rules. The violations were as follows:

   (a) Respondent failed to update the management system to oversee the implementation of the RMP elements, in violation of OAC Rule 3745-104-07.

   (b) Respondent failed to include in the process safety information, the safe upper and lower limits as well as consequences of deviations from these limits for the sulfur dioxide process, in violation of OAC Rules 3745-104-24(C)(1)(d) and (e). (This is a repeat violation.)

   (c) Respondent failed to include in the process safety information, documentation on the safety systems (i.e., gas monitors), in violation of OAC Rule 3745-104-24(D)(1)(h).

   (d) Respondent failed to document that the operating procedures were annually certified, in violation of OAC Rule 3745-104-26(C). (This is a repeat violation.)

   (e) Respondent failed to conduct training on the operating procedures, operating limits, and safety systems at least every three years, in violation of OAC Rules 3745-104-27(A) and (B). (This is a repeat violation.)

(f) Respondent failed to establish and implement written procedures to maintain the on-going integrity of the process, in violation of OAC Rule 3745-104-28(A).

(g) Respondent failed to perform inspections and tests on process equipment and document each inspection and test performed, in violation of OAC Rule 3745-104-28(D).

(h) Respondent failed to update the written plan of action regarding the implementation of employee participation, in violation of OAC Rule 3745-104-33.

6. Respondent failed to resubmit their RMP to U.S. EPA and Ohio EPA by June 21, 2009, in violation of OAC Rule 3745-104-49(B)(1).

7. A deficiency letter was mailed to Respondent on August 6, 2009. No documentation was submitted, and a warning letter was sent on October 15, 2009. Ohio EPA, DAPC phoned the responsible official to inquire about the documentation on November 19, 2009 and he stated that he would return the call. A phone call was not received. To date, no documentation to resolve the deficiencies in Findings 5(a) through (g) has been received.

8. 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 5 and 6.

9. 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. Within thirty (30) days after the effective date of these Orders, Respondent shall submit adequate documentation to the Ohio EPA, that verifies all deficiencies in Findings 5(a) through 5(h) have been corrected and the second five-year process hazard analysis has been conducted (due August 2009), as required by OAC Rules 3745-104-25(C), (D), and (E). The Respondent shall resubmit their RMP to U.S. EPA and Ohio EPA, as required by OAC Rule 3745-104-(B)(1).

2. Pursuant to ORC § 3753.09, Respondent shall pay the amount of twelve thousand four hundred five dollars ($12,405) 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 nine thousand nine hundred twenty four dollars ($9,924) 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 two thousand four hundred eighty one dollars ($2,481) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $2,481 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 $2,481 within fourteen (14) days after the effective date of these Orders. 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 $2,481 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 a "facility official" who is in charge of a principal business function of Respondent.

VII. OTHER CLAIMS

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

IT IS SO AGREED:

City of Youngstown, Wastewater Treatment Plant

_____ _____

Signature Date

_____ _____

Printed or Typed Name Date

_____

Title

Risk Management Plan (RMP)Civil Penalty Calculation Worksheet
(Program level 3 process)

Facility name/location: Youngstown Wastewater Treatment Plant

Recordkeeping Penalties		
Required element	**Description of element deficiency**	**Penalty**
OAC 3745-104-15 Hazard assessment $ 1,000 to $5,000		
OAC 3745-104-07 Management system $ 500 - $1,500	Not updated with new personnel	$ 500
OAC 3745-104-24 Process safety information $ 1,000 - $5,000	No SO2 operating parameters No documentation for Cl2 detectors	$3,000
OAC 3745-104-25 Process hazard analysis $ 1,000 - $ 7,000	Required by Aug 2009 (not at time of the audit)	
OAC 3745-104-26 Operating procedures $ 1,000 - $4,000	Not annually certified	$1,000
OAC 3745-104-27 Training $ 1,000 - $ 4,000	No training on SOPs	$2,000
OAC 3745-104-28 Mechanical integrity $ 1,000 - $ 5,000	No mechanical integrity program. No documentation on inspections and/or tests	$5,000
OAC 3745-104-29 Management of change $ 1,000 - $ 5,000		
OAC 3745-104-30 Pre-Startup Review $ 1,000 - $3, 000		
OAC 3745-104-31 Compliance audits $ 1,000 - $ 3,000		
OAC 3745-104-32 Incident investigation $ 1,000 - $3,000		
OAC 3745-104-33 Employee participation $ 1,000 - $3,000	Not updated	$ 1,000

Required element	Description of element deficiency	Penalty
OAC 3745-104-34 Hot work permit $ 1,000 - $2,000		
OAC 3745-104-35 Contractors $ 1,000 - $3,000		
OAC 3745-104-36 Emergency response coordination $ 3,000 - $ 5,000		
OAC 3745-104-37 Emergency response program (if applicable) $ 4,000 - $ 8,000		
TOTAL (RP)		$12,500

CP_a = YR + (10 x NE) + P

CP_a	Description	Penalty
# of months out of compliance (YR)	6/21/09 - 12/2009 (five year resubmission)	$2,000
# of employees at facility (NE)	[81] x 10	$ 810
Number of affected population in worst case release scenario P = 0 0 0 < P ≤ 100 $ 2000 100 < P ≤ 1,000 $ 4000 1,000 < P ≤ 10,000 $ 6000 10,000 < P ≤ 100,000 $ 8000 100,000 < P ≤ 1,000,000 $10,000 P > 1,000,000 $12,000	Affected population = [12,845] P = [ ]	$8,000
TOTAL CP_a		$10,810

$$CP_b = [(\sum Q_n/T_n)_{Process\ 1} \times RS] + [(\sum Q_n/T_n)_{Process\ 2} \times RS] + [(\sum Q_n/T_n)_{Process\ 3} \times RS] + [(\sum Q_n/T_n)_{Process\ 4} \times RS] \ldots$$

$1 \leq \sum Q_n/T_n < 10$	$1,000
$10 \leq \sum Q_n/T_n < 100$	$2,000
$100 \leq \sum Q_n/T_n < 1,000$	$3,000
$\sum Q_n/T_n \geq 1,000$	$4,000

Process 1 (use additional worksheets for more than one process)

Regulated Substance		Quantity ÷ threshold amount		Amount
Chlorine		24,000 lbs / 2500 lbs = 9.6		
Sulfur dioxide		6,000 lbs / 5,000 lbs = 1.2		
Total # of regulated substances (RS) =		Total $\sum Q_n/T_n$ =	10.8	
(RS) x $\sum Q_n/T_n$ = Total CP_b penalty				$2,000

MITIGATION		
RP ($ 12,000) + CP_a ($ 10,810) + CP_b ($ 2000) + additional CP_b total worksheets ($) = $ 24,810		
Component	**Percentage / Comments**	**Total**
Environmental consequences[1]		(+)
Degree of cooperation [2]		(+ / -)
Small business or local/county government owned facility [3]	50% mitigation for city owned municipality	(-)$12,405
TOTAL CIVIL PENALTY:		$ 12,405

[1] *Major impact: A release would likely have a significant effect on human health, a sensitive ecosystem, or wildlife (especially endangered species). Upward adjustment of 25% to 50%.*
Moderate impact: A release would likely have an effect on the surrounding, non-sensitive ecosystem. Upward adjustment of up to 25%.
Minor impact: No adjustment.
[2] *Mitigation up to 30% for subject facilities that promptly correct their violations and an upward adjustment of up to 75% for those facilities that do not cooperate expeditiously.*
[3] *For facilities meeting the definition of a "small business" and local/county government owned facilities (i.e., water and wastewater treatment plants), the total civil penalty may be mitigated by up to 50%.*