AKRON REGIONAL
AIR QUALITY MANAGEMENT DISTRICT

Agent of the Ohio Environmental Protection Agency • Division of the Akron Health Department
Serving Medina, Portage and Summit Counties

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L. M. Malcolm, P.E.
Administrator

July 13, 2007

Mr. Robert Boxler, Program Manager
Energy, Environmental Health, & Safety
Akron Public Schools
70 N. Broadway Street
Akron, OH 44308

Mr. Michael Deiwert, Project Executive
Ruhlin, Kenmore, Panzica, & Stephens (R.K.P.S.)
400 W. Market Street, Suite 1
Akron, OH 44303

Mr. Lawrence Griebel, President
Duer Construction Inc.
1016 Morse Street
Akron, OH 44320

Dear Mr. Boxler, Mr. Deiwert, and Mr. Griebel:

SUBJECT: NOTICE OF VIOLATION REGARDING SAWING/CUTTING ACTIVITIES AT FOREST HILL ELEMENTARY AND ROBINSON ELEMENTARY SCHOOLS

You are hereby cited for violations of the Ohio Administrative Code section 3745-17-08 (B)(1) (Fugitive Dust) and Title 9, Section 97.01 of the Akron Code of Ordinances. These violations have occurred on your jobsites at Forest Hill and Robinson Elementary Schools in the city of Akron (Summit County).

VIOLATIONS AT FOREST HILL ELEMENTARY SCHOOL:

May 7, 2007 - An inspector from the Akron Regional Air Quality Management District (ARAQMD), investigated a complaint regarding excessive fugitive dust being generated at Forest Hill Elementary School on Fouse Avenue, in the city of Akron. The inspector observed excessive dust as the result of saw cutting cement block without water to suppress the dust. At this time (11:20 a.m.) Tom Griebel of Duer Construction was contacted via telephone, the fugitive dust regulations were explained, and a written order to "cease and desist" all illegal sawing/cutting activities was given to Don, a Duer Construction representative onsite . The fugitive dust regulations were also explained to Mike Tarry, Project Superintendent for R.K.P.S. (the construction management firm onsite). Later the same day at 12:55 p.m., the sawing of cement blocks without dust suppression continued and additional photos were taken.

May 8, 2007 - An inspector observed fugitive dust on the Forest Hill jobsite, as a result of saw cutting cement block without water. Jerry Taylor of the Akron Public Schools was advised of the situation. Two copies of the OAC 3745-17-08 fugitive dust regulations were provided to Mike Tarry of R.K.P.S. Mike Tarry of R.K.P.S. sent an email (to ARAQMD) to Duer Construction regarding the use of water when saw cutting to comply with OAC 3745-17-08 and General Condition 2.3.6 of the project handbook.

May 9, 2007 - A Notice of Violation (NOV) letter was sent to Duer Construction referencing the May 7 and May 8, 2007 violations (copy to Mike Tarry at R.K.P.S. via email). Rob Boxler, Akron Public Schools, returned a call and stated he had visited the Forest Hill Elementary jobsite, talked to Duer Construction regarding dust suppression and the masons would do all their cutting operations in a single location. An inspector returned the call and explained the regulations and the need to minimize dust generation, not simply localize it. Both calls to and from Rob Boxler resulted in voice mail messages.

May 10, 2007 - Duer Construction received ARAQMD's NOV.

May 11, 2007 - An inspector observed saw cutting using water, and dust generation was reduced.

May 14, 2007 - Masons continued to saw without water or dust suppression method(s). A call was made to Tom Griebel, from the jobsite, advising him of the situation.

May 15, 2007 - ARAQMD received a fax from Duer Construction in response to the NOV. Duer was purchasing water attachments for saws, training employees, and drafting a disciplinary action plan for non-compliance.

June 6 and 14, 2007 - Minimal water was being applied and dust was not being adequately controlled or minimized.

On June 27, 2007, at 12:48 p.m. - An inspector observed saw cutting without water; workers quickly called for and began using water when they noticed an inspector present. At 2:30 p.m. the same day, the inspector witnessed sawing again without dust suppression.

On June 29, 2007 - An inspector observed saw cutting without water and phoned Duer's office, talked to Dave Griebel and explained the regulations, and issued a verbal order to comply. The inspector also talked to Mike Tarry of R.K.P.S. again and stressed the need to control/minimize dust. Our agency received a dust complaint from a local resident at this time.

July 10, 2007 - During a follow-up visit an inspector again observed sawing of cement block without adequate dust suppression. A local resident came forward at this time voicing health concerns about the dust being generated further stating he has a respiratory issue due to asbestos exposure.

VIOLATIONS AT ROBINSON ELEMENTARY SCHOOL:

June 27, 2007 - An inspector observed saw cutting of cement block without dust suppression. A representative of Duer Construction, Don Sorrell, was contacted on site; the fugitive dust regulations were explained, a copy of the regulations was provided, and a written order to "cease and desist" all illegal sawing/cutting activities was issued. A representative of R.K.P.S. was present and also advised of the regulations. The inspector was told by Duer Construction's representative that they would obtain and use pump sprayers with water while cutting to minimize dust generation.

July 10, 2007 - An inspector observed saw cutting of cement block without any form of dust suppression. Photos taken.

In light of the continued violations and non-compliance with the Ohio Administrative Code section 3745-17-08 (B)(1) and Title 9, Section 97.01 of the Akron Code of Ordinances, you are urged to take appropriate steps to be sure that no further illegal generation of fugitive dust occurs on these job sites or any others wherein you are employed. **Within seven days (7) of receipt of this letter, please submit a written commitment to cease all further illegal generation of fugitive dust and a detailed description of the dust control measures you will be utilizing.**

Acceptance by this Agency of your commitment does not constitute a waiver of this Agency's authority to seek civil penalties as provided in Title 9, Section 97.01 of the Akron Code of Ordinances, or to refer the matter to the Ohio EPA for their enforcement action (including imposition of civil penalties). The determination to pursue or to decline such penalties will be made at a later date.

If you have any questions regarding this matter, please contact me at 330/375-2480 ext 6051.

Yours truly,

L. M. Malcolm, PE
Administrator

LMM
Certified Mail
Enclosure
cc Tom Kalman, Ohio EPA
B. Guyette, ARAQMD