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

September 19, 2007

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

Mr. David Krutz, Project Executive
RKPS Construction Managers
400 W. Market Street, Suite 1
Akron, OH 44303

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

Mr. Terry Moser, President
Moser Construction Company
PO Box 328
Rootstown, OH 44272

To Mr. Boxler, Mr. Krutz, Mr. Griebel, and Mr. Moser:

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 job sites at Forest Hill and Robinson elementary schools in the city of Akron (Summit County).

ADDITIONAL VIOLATIONS AT FOREST HILL ELEMENTARY SCHOOL:

August 22, 2007 - At 11:35 a.m., an inspector from the Akron Regional Air Quality Management District (ARAQMD) observed excessive dust as a worker from Duer Construction sawed block, on Damon Street next to the existing school building, without water or dust control. Mike Tarry of RKPS was nearby and, upon seeing the inspector, stopped the sawing and had the workers use water. The inspector returned to the job site the same day and observed the workers continually sawing without water from 1:20 p.m. to 4:00 p.m. Written orders to "cease and desist" illegal sawing and use of a dust minimization method were given to Don, the foreman from Duer Construction. Photos were taken.

August 22, 2007 - At approximately 3:40 p.m., a rotary type broom/sweeper made several passes on the paved area between the existing and new school buildings. This activity created a huge cloud of thick, brown dust which drifted across the street blanketing nearby houses. Photos were taken. The paved area was dirt and dust covered from construction activities. At 3:50 p.m. the inspector went onsite to speak with Mike Tarry, Project Manager for RKPS, Mr. Tarry became very nasty and refused written orders and stated that RKPS is not responsible. No dust control was being employed on the site to control dust on haul roads or at the entrances and exits.

August 22, 2007 - Four neighbors came forward and filed nuisance complaints regarding the job site. These complaints were primarily pertaining to dust.

August 23, 2007 - Mike Tarry e-mailed a copy of an Air Quality Violation sent to Duer Construction from RKPS. In the complaint, Mr. Tarry acknowledged that he had witnessed the cutting of block outside of the old school.

August 27, 2007 - An inspector from ARAQMD responded to a complaint "about all the dust that is in the air and for all the people and children in the neighborhood, for the children starting back to school...." At this time the inspector again observed fugitive dust on the Forest Hill job site. A worker from Duer Construction was again sawing cement block without water. Photos were taken.

August 29, 2007 - ARAQMD received another complaint stating "school started today and the workers are sawing without water and it's blowing into the (school) windows. Sawing has been going on all morning."

September 7, 2007 - An inspector from ARAQMD observed excessive dust being generated by re-suspension of carry out from the construction site onto Damon Street. Visible emissions readings were taken and a violation was documented.

ADDITIONAL VIOLATIONS AT ROBINSON ELEMENTARY SCHOOL:

September 4, 2007 - An inspector observed a worker from Duer Construction saw cutting cement block without dust suppression. A water can was sitting nearby on the scaffold and not being used. Photos were taken.

VIOLATIONS AT GLOVER ELEMENTARY SCHOOL:

August 27, 2007 - Excessive fugitive dust was observed. Dust was being generated by on site traffic and lack of dust control measures.

August 28, 2007 - ARAQMD phoned Rob Boxler, Akron Public Schools, to confirm party responsible for dust control.

August 30, 2007 - An inspector from ARAQMD observed Moser Construction workers sawing masonry without water or any other method of dust control.

August 31, 2007 – An inspector from ARAQMD again observed significant fugitive dust being generated on this site. Moser Construction workers were sawing without water at several locations on the site. Written orders were issued to Terry Kelly, foreman for Moser Construction. Additional dust was being generated by hi-lift, truck, and other traffic on the site. No dust control methods were being employed. At 2:33 p.m., Moser began using a pick up truck and trailer with a water tank to settle dust. Very little water was being sprayed and due to the hot, dry, windy conditions the spraying was ineffective at controlling dust.

September 7, 2007 - Excessive dust was present both on and off the site at this time. The inspector talked to Ray Pittman of RKPS regarding the need for dust control. Moser Construction workers were again sawing masonry without water or any form of dust control.

Moser Construction has been in contact with the ARAQMD regarding dust control. A meeting was held at the ARAQMD office on September 10, 2007. The meeting was attended by Terry Moser (president), Shawn Workman (project manager), Terry White (safety director), and ARAQMD staff. Dust control/minimization methods were discussed and have since been implemented. Terry White has been in contact with our office to monitor and maintain compliance on the Glover Elementary School job site.

In light of the continued violations and non-compliance with the Ohio Administrative Code section 3745-17-08 (B) (1) (Fugitive Dust) and Title 9, Section 97.18 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 (7) days 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

BKG:LMM
Certified Mail
cc Tom Kalman, Ohio EPA
Mike Mereb, Ohio EPA