



State of Ohio Environmental Protection Agency

Southeast District Office

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

March 8, 2010

Certified Mail #7007 3020 0001 7884 9354

Farley R. Wood, P.E., Director of Environmental Compliance
Murray Energy Corp.
56854 Pleasant Ridge Road
Alledonia, OH 43902

Re: Belmont County
Ohio Valley Coal Company - Powhatan No. 6 Mine (OVCC)
Facility ID # 0607000089
Warning Letter (Non-HPV)

Dear Mr. Wood:

On February 24, 2010, representatives from Ohio EPA's Division of Surface Water (DSW), Southeast District Office (SEDO), were in the area of the OVCC facility in Alledonia, Ohio. As shown in the enclosed photos, a significant amount of coal dust dragout was observed along the berms of SR 148 near the clean coal pile and loading area. The coal dust accumulation was seen several hundred yards from the exit of the facility and was very deep in many spots.

Please be advised that OVCC is in violation of the air permits issued for the facility and Ohio Administrative Code (OAC) rule 3745-17-08(B)(9). Specifically, the rule states:

- (B) "No person shall cause or permit any fugitive dust source to be operated; or any materials to be handled, transported, or stored; or a building or its appurtenances or a road to be used, constructed, altered, repaired, or demolished without taking or installing reasonably available control measures to prevent fugitive dust from becoming airborne. Such reasonably available control measures shall include, but not be limited to, one or more of the following which are appropriate to minimize or eliminate visible particulate emissions of fugitive dust:

- (9) The prompt removal, in such a manner as to minimize or prevent resuspension, of earth or other material from paved streets onto which earth or other material has been deposited by trucking or earth moving equipment or erosion by water or other means."

Farley R. Wood, P.E.
Murray Energy Corp.
March 8, 2010
Page 2

Further, in PTI #17-729 issued on 6/26/91, Additional Special Term and Condition #6 for unpaved roads and parking areas in the clean coal area requires that "any material carried off of the source owner's property and deposited onto the paved roadways by the trucks or erosion by water, etc., shall be promptly cleaned up and disposed of properly in such a manner as to minimize or prevent resuspension."

Please provide me documentation within 14 days of your receipt of this letter that demonstrates that the coal dust dragout violation has been addressed and the material has been removed. The company must also provide Ohio EPA with a compliance plan and schedule that outlines the steps that the company will take to prevent recurrence of this violation in the future. Note that Ohio EPA has found the company to be in violation of the dragout prevention requirements in the past, so the company must investigate more effective means to maintain compliance.

Acceptance by Ohio EPA of a schedule for compliance does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in section 3704.06 of the Ohio Revised Code. The determination to pursue or decline to pursue such penalties in this case will be made by Ohio EPA at a later date.

Should you have questions or wish to discuss this further, please contact me at 740-380-5245 or kim.reinbold@epa.state.oh.us.

Sincerely,



Kimbra L. Reinbold
Division of Air Pollution Control
Southeast District Office

KLR/mlm

cc: Abbot Stevenson, DSW, SEDO
Bruce Weinberg, DAPC, SEDO
John Puterbaugh, Ohio DNR, Division of Mineral Resources Management