



State of Ohio Environmental Protection Agency

Southeast District Office

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

June 30, 2008

**Re: Perry County (Portable)
Allied Corporation Plant #73
Facility ID #0664980003
Warning Letter - Non-HPV**

Certified Mail #70063450000190562758

Ms. Beth Mowrey
The Shelly Company
P.O. Box 266
Thornville, Ohio 43076

Dear Ms. Mowrey:

On June 19, 2008, Ohio EPA, Division of Air Pollution Control, Southeast District Office (SEDO), performed an inspection of Allied Corporation Plant #73, a 400 TPH portable drum mix asphalt plant currently located at 3848 Erie Ave. SW in Massillon, Ohio. The inspection was conducted to determine the facility's compliance with state and federal air pollution rules and regulations and the permit for this facility. You, Tom Henry, Tom Slane, and John Casto III represented the Shelly Company during this inspection.

Permit-to-install (PTI) #06-07732 was issued for this plant and its support units (emissions units P901, F001 and F002) on March 7, 2006. Permit-to-operate (PTO) applications were received with the PTI application for these units, but no PTOs have been issued to date. The four storage tanks on site are exempted from permitting requirements.

Based on observations during the inspection and records reviewed prior to and after the inspection, the following violations of the state and federal air pollution requirements and the PTI for this facility were discovered. Additional violations may be cited if discovered through a review of the records requested in the Comment section, below.

**(1) Raw Material Use
Part II.B.7 of PTI #06-07732 (EU P901)**

The permittee shall only use virgin aggregate and RAP in the raw material feed mix.

During the inspection, I was informed that slag is used in some asphalt mixes produced in Allied Corporation Plant #73. A random review of production records revealed slag use at up to 53% in some asphalt mixes. Because Ohio EPA does not consider slag to be a virgin aggregate or RAP, the company is in violation of this term of the PTI.

Please provide SEDO with a list of the days when slag was used in the raw material feed mix at Allied Plant #73 from May 2006 through present, and the percentage of slag used in the asphalt produced on each of those days.

It is understood that Director's Final Findings and Orders are currently being negotiated that will address the use of slag at all Shelly Materials asphalt plants.

(2) Deviation Reporting
Part II.D.12.

The permittee shall submit quarterly deviation (excursion) reports that identify all exceedances of the raw material composition limitation specified above. These reports are due by the dates described in Part I - General Terms and Condition of this permit under section (A)(2).

The Shelly Company has failed to report its use of slag in the quarterly deviation reports submitted to Ohio EPA since Allied Plant #73 began operations in May of 2006. Beginning with the quarterly deviation report due July 31, 2008, the Shelly Company must begin reporting any use of slag as a deviation from the permit terms for this emissions unit.

Comments:

- (1) On February 19, 2008, I received the average hourly production rate data for Allied Corporation Plant #73 for 2007 that I had requested in my letter dated December 12, 2007. Based on a review of this data, it appeared that Allied Corporation Plant #73 was not operated above 290 tph during 2007, in compliance with the production limitation specified in Ohio EPA's compliance test letter dated October 26, 2006. However, in order to evaluate compliance with the requirement to operate below 303.67 tph, until the company demonstrates compliance with its particulate limit for this plant at a higher operating rate, please provide me average hourly production data for 2008 through the date you provide a response to this letter as required below.
- (2) Part II.E.2.e of the permit for EU P901 requires that burner tuning be conducted within 10 production days before or after June 1 of each year, unless the first burner tuning of the season was conducted 30 days prior to June 1. Operations for 2008 began at this plant on April 15, 2008, and the first and only burner tuning conducted this season occurred on April 23, 2008. During the inspection, I failed to review the records in a manner that allowed me to determine compliance with the June burner tuning requirement. Based on the information that is provided in response to Comment #1 above, SEDO will determine whether the company is in compliance with the burner tuning frequency requirement in its permit.
- (3) During the Allied Plant #73 inspection, we discussed the difference between malfunction and deviation, continuing our email discussions regarding baghouse issues with Allied Plant #77. At issue for stack opacity is how the company can determine whether an opacity violation has occurred if the operators and other plant

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staff are not Method 9 certified. Please be advised that it is the expectation of Ohio EPA that the company be able to determine whether opacity violations have occurred at all of its facilities so that any violations and malfunctions are promptly addressed and are reported in compliance with the applicable permits. Therefore, SEDO recommends that the Shelly Company have representatives available to conduct Method 9 readings at any operating plant.

Copies of the checklists completed as part of the inspection are enclosed.

Within thirty (30) days of your receipt of this letter, please provide me a written response that details the actions that the Shelly Company has or will take to resolve the violations and address the issues listed above. The company must provide Ohio EPA with a compliance plan and schedule that outlines the steps that the company will take to ensure compliance with the applicable permit conditions and state and federal air pollution regulations as indicated above. Acceptance by the Ohio EPA of a schedule for compliance does not constitute a waiver of the 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 the Ohio EPA at a later date.

The assistance provided during the inspection is greatly appreciated. Should you have any questions, please feel free to contact me at (740) 380-5245 or via email at kim.reinbold@epa.state.oh.us.

Sincerely,



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

KLR/mlm

Enclosures