



State of Ohio Environmental Protection Agency

**Southeast District Office**

Shelly Plant 65  
Muskingum  
0660000100  
Correspondence

2195 Front Street  
Logan, Ohio 43138

TELE: (740) 385-8501 FAX: (740) 385-6490  
www.epa.state.oh.us

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

May 15, 2007

Re: Muskingum County  
Shelly Materials Plant 65  
Facility ID # 0660000100  
Notice of Violation

**CERTIFIED: 70063450000190545867**

Beth Mowrey  
The Shelly Co.  
PO Box 266  
Thornville, OH 43076

Dear Ms. Mowrey:

On July 25, 2006, a stack test was conducted at the Shelly Plant 65 facility in Dresden. This test, conducted under an approved Director's discretionary exemption pursuant to OAC rule 3745-31-03(A)(3)(f), allowed the temporary modification of Shelly Plant 65 to burn on-specification used oil for emissions testing purposes.

Shelly Plant 65 was first issued a Director's discretionary exemption letter on May 18, 2006. However, due to scheduling conflicts, Shelly Plant 65 was unable to complete testing by the July 18, 2006 expiration of the exemption. The facility was subsequently issued a second Director's discretionary exemption letter, effective July 20, 2006. Both of these exemption letters were issued to allow Shelly Plant 65 to temporarily modify the asphalt plant to burn used oil for emissions testing purposes only. Item 4. in both letters clearly states that "the modified sources included in this exemption shall only operate for the purposes of emissions testing within this time period."

During the test, Kim Reinbold and I reviewed fuel usage and fuel receipt records for the 2006 operating season. We spoke with you, Jeff Conover, and Steve McElfresh about this matter. It was noted during this review that Shelly Plant 65 began receiving and burning on-specification used oil as of May 11, 2006. Between May 11, 2006 and the July 25, 2006 test date, Shelly Plant 65 received 57,400 gallons of used oil, with 10,397 gallons of used oil remaining in the tank on the day of the test. You indicated that the remaining used oil would also be burned by the plant to decrease the volume in the portable fuel tank before transporting the tank off-site.

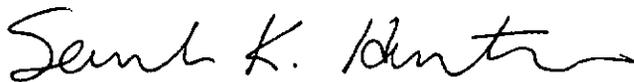
The burning of used oil on all days before and after the July 25, 2006 test date is a violation of the conditions of the Director's discretionary exemption letter. Furthermore, modification of an air contaminant source prior to obtaining a permit to install is a violation of OAC rule 3745-31-02(A)(1).

Beth Mowrey  
The Shelly Co.  
May 16, 2007  
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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.

Should you have any questions about this letter, please contact me at (740) 380-5249.

Sincerely,



Sarah K. Harter  
Environmental Supervisor  
Division of Air Pollution Control  
Southeast District Office

SKH/mlm

cc: Bruce Weinberg, DAPC/SEDO  
John Paulian, DAPC/CO  
Benjamin Franz, AGO  
Lisa Holscher, USEPA