



City of Cleveland
Frank G. Jackson, Mayor

Department of Public Health
Division of Air Quality
75 Erieview Plaza, Second Floor
Cleveland, Ohio 44114-1839
216/664-2297 • Fax: 216/420-8047
www.clevelandhealth.org

**SERVING OHIO EPA AS AGENCY 13
FOR CUYAHOGA COUNTY**

**CERTIFIED MAIL 7012 2210 0000 5209 3480
RETURN RECEIPT REQUESTED**

June 14, 2013

Ken Rose
Director of Engineering and Environmental
Omnitrax
252 Clayton Street
Denver, CO 80206

NON-HPV

**RE: 4200 EAST 49TH STREET, NEWBURGH HEIGHTS, OH 44105
FACILITY ID: 13-18-17-8306
NOTICE OF VIOLATION: Operating an unpaved roadway without a permit**

Dear Mr. Rose:

On May 23 and June 10, 2013, the Cleveland Division of Air Quality (CDAQ) inspected Newburgh & South Shore Railroad, LLC's property located at 4200 East 49th Street in Newburgh Heights, Ohio. This letter serves as notification that you are operating a source in violation of the following applicable air statutes, air regulations, or air permit conditions.

Newburgh & South Shore Railroad, LLC has been operating an unpaved roadway since at least 1991 without applying for a permit. Operating an air Emissions Unit (EU) without applying for a permit is a violation of Ohio Administrative Code (OAC) Rule 3745-31-02(A)(1)(c) and Ohio Revised Code (ORC) Section 3704.05(F).

Unless you undertake some type of corrective action with respect to the above noted violation, you will remain in non-compliance. CDAQ requests that Newburgh & South Shore Railroad, LLC submit a permit application for the unpaved roadway to the following address:

Permit Section
Cleveland Division of Air Quality
75 Erieview Plaza 2nd Floor
Cleveland, Ohio 44114-1839



Your written response to this letter must be received by CDAQ within thirty (30) days of your receipt of this letter. If there is insufficient time to correct the alleged violation within this timeframe, your response must include a timeline for correcting the alleged violation.

A Model General Permit application may be submitted for the unpaved roadway, if it meets the qualifying criteria. The application and instructions can be found online at the following link: <http://www.epa.ohio.gov/dapc/genpermit/urpa1.aspx>.

A Permit-to-install/operate (PTIO) application may need to be submitted if the unpaved roadway does not meet the qualifying criteria for a Model General Permit. PTIO applications and instructions can be found online at the following link: <http://www.epa.ohio.gov/dapc/permits/permits.aspx>.

Please note that all permit applications submitted to CDAQ must include original signatures. Photocopied signatures are not valid; the application will not be accepted by CDAQ and will be returned to you if original signatures are not provided.

Permit-to-install/operate (PTIO) applications may be completed through the Ohio EPA eBusiness Center at <https://ebiz.epa.ohio.gov/>. An account is required to be created and a pin number assigned.

Violations of Ohio air pollution laws and /or permit terms and conditions are subject to the penalties stipulated in Ohio Revised Code Section 3704.99(A), which allows fines of not more than twenty-five thousand dollars (\$25,000) or imprisonment for not more than one year, or both, for each violation.

CDAQ issues this letter with Ohio EPA's concurrence. The failure to mention any specific violation does not excuse any violations of local, state and federal laws or regulations regarding air pollution control. Violations of air pollution control laws may be pursued in local court or referred to Ohio EPA or U.S. EPA for further enforcement action.



Should you have any questions, please call Andrew Marantides at (216) 420-8049. All correspondence with CDAQ must include the Ohio EPA identification number for Newburgh & South Shore Railroad, LLC: 13-18-17-8306.

Sincerely,

A handwritten signature in black ink that reads "Valencia S. White".

Valencia White
Chief of Enforcement, CDAQ

VW/AM

cc: Billie Johnson, Newburgh & South Shore Railroad, LLC
Steven Ward, Omnitrax
George P. Baker, CDAQ
Michael J. Krzywicki, CDAQ
John Paulian, Ohio EPA Central Office
Brian Dickens, U.S. EPA Region V
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