



State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.
Twinsburg, Ohio 44087

TELE: (330) 963-1200 FAX: (330) 487-0769
www.epa.state.oh.us

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

January 14, 2009

RE: NOTICE OF VIOLATION
FUGITIVE DUST NUISANCE
DAPC FACILITY ID# 02-04-01-0233

CERTIFIED MAIL

Mr. Charlie Jones, Manager
Norfolk Southern Corporation
Ashtabula Harbor Terminal
645 East 6th Street
Ashtabula, OH 44004

Dear Mr. Jones,

This letter serves to inform the Norfolk Southern Corporation (NSC) that Ohio EPA has determined that NSC is operating the coal conveyor at its Ashtabula Harbor Terminal in a manner that constitutes an air pollution nuisance, in violation of Ohio Administrative Code (OAC) Rule 3745-15-07(A). That rule states that "*...the emission or escape into the open air from any source or sources whatsoever, of smoke, ashes, dust, dirt, grime, acids, fumes, gases, vapors, odors, or any other substances or combinations of substances, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property, is hereby found and declared to be a public nuisance. It shall be unlawful for any person to cause, permit or maintain any such public nuisance.*"

As you may be aware, Ohio EPA's Division of Air Pollution Control (DAPC) has received complaints from Ashtabula citizens and city officials regarding periodic visible releases of fugitive dust from the coal dock operations located at your facility. In addition, we have received a number of complaints from property owners regarding airborne coal dust residue from your facility's coal dock operations becoming deposited on and inside residences, commercial buildings, on cars, outdoor furniture, along with watercraft docked on the Ashtabula River. Furthermore, these complainants have stated that emissions from your facility have affected their ability to fully enjoy the environment and their property.

Our initial investigation has found evidence that fugitive dust releases from the coal conveyor located over the Ashtabula River have resulted in significant releases to the river itself, along with boat traffic traveling from the Sutherland marina to Lake Erie. We have also received complaints from Ohio Department of Natural Resources (ODNR) officers, regarding the deposition of coal dust onto their building and property, located immediately adjacent to your facility. The deposits vary in form, ranging from a mist to a slurry, which leaks from the overhead coal conveyor. The results of those events have caused property damage in the form of coal dust residue to the outside of the ODNR office, and a visible residue of coal on their property.

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We have received copies of pictures and have been informed of numerous releases of airborne particulate matter from the coal conveyor from ODNR. In a two-week period in June, ODNR documented seven instances of coal dust splatter from the NSC conveyor onto their building. (This information was conveyed to you previously, in a July 2, 2008 letter from Virginia Wilson of Ohio EPA to Kevin Hauschildt, NSRC.) Recently, Virginia Wilson was coated by a fine mist of coal dust on October 10, 2008 while witnessing a power washing episode of the coal conveyor.

Ohio EPA requests that NSC submit a plan and schedule of corrective action to abate any further violation of the air pollution nuisance rule within 14 days of your receipt of this notice. Failure to submit the necessary compliance plan and schedule may result in the referral of this matter to our Central Office for enforcement.

The submission of the requested plan and schedule does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in Ohio Revised Code 3704.06.

If there are any questions regarding this letter, or if you wish to meet with us to discuss this matter, please contact either Anthony Becker at (330) 963-1187, or the undersigned at (330) 963-1230.

Sincerely,



Robert T. Princic, Jr.
Environmental Supervisor
Division of Air Pollution Control

RTP/mt

cc: Lisa Holscher, U.S. EPA Region V
Mark Conti, U.S. EPA Westlake
Tom Kalman, Ohio EPA, DAPC, CO
Bryan Zima, Ohio EPA, Legal, CO
Bill Skowronski, District Chief, Ohio EPA, DO, NEDO
Virginia Wilson, DSW, CO
Tim Fischer, Ohio EPA, DAPC, NEDO
Anthony Becker, Ohio EPA, DAPC, NEDO
Anthony Cantagallo, City of Ashtabula
Robert Wallace, Norfolk Southern Corporation