



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

March 21, 2013

CERTIFIED MAIL: 70122920000138145973

Gregory J. Honish, Responsible Official
Oxford Mining, Bellaire Dock
40580 Cadiz-Piedmont Road
Cadiz, OH 43907

Re: NOTICE OF VIOLATION
Oxford Mining, Bellaire Dock
Facility ID: 0607020122
Location: 5100 N. Guernsey Street,
Bellaire, OH 43906
Belmont County

Dear Mr. Honish:

The purpose of this letter is to convey notice of violation of terms and conditions of applicable permits, requirements, and laws, highlight the potential for monetary civil penalties for non-compliance, and direct the facility to gain compliance.

Historical Non-Compliance

1. On February 5, 2009, Kimbra Reinbold performed a site visit, noting "fugitive coal dust that was blowing off the large coal pile," potentially in violation of permit-to-install (PTI) 17-794 (effective July 19, 1990) and Ohio Administrative Code (OAC) rules 3745-17-08 and 3745-31-05, which require control measures to minimize and eliminate fugitive dust.
2. On October 29, 2009, a complaint was received by Ohio EPA, Division of Air Pollution Control (DAPC), Southeast District Office (SEDO), stating that coal dust was being tracked out of the facility and onto State Route 7, potentially in violation of PTI 17-794, which specifically required that "[A]ll vehicle wheels shall be washed of dirt and debris in a manner and location to minimize and eliminate the carry on [sic] of dirt and debris onto the paved surfaces in order to minimize and eliminate at all times the visible emission of fugitive dust generated by vehicle traffic"; subsequently, permit-to-operate (PTO) P0037029 (effective November 23, 1994) affirms this requirement verbatim; OAC rules 3745-17-08, and -31-05 also apply and require control measures to minimize and eliminate fugitive dust. Lisa Duvall investigated the complaint on November 2, 2009, and

again on November 10, 2009, and found that cleanup had not been completed on State Route 7. Additionally, the air contaminant sources identified in PTI 17-794 are prohibited from causing a public nuisance in accordance with OAC rule 3745-15-07.

On December 22, 2009, Kimbra Reinbold performed a second site visit to follow up on Ms. Duvall's investigation and noted that "not only were the roads on facility property completely coated with coal dust, but the public roads to and from the facility were also coated with coal dust." Ms. Reinbold explained to the Site Manager, Kevin Campbell, that the coal drag-out was a violation of "both the fugitive dust rules applicable to Belmont County and the company's air permits." Further, she "pointed out the requirement to have a wheel wash to prevent tracking of coal dust;" Mr. Campbell acknowledged that "there used to be a small wheel wash in place when the facility was operated by R&F Coal, but that the [sic] wheel wash had [sic] since been removed." All of these observations were photo-documented.

3. On January 25, 2010, Ms. Reinbold issued a certified Complaint Investigation Warning Letter, detailing the facility's

"violation of Ohio's fugitive dust rules in OAC rule 3745-17-08(B)(8) and (9) that state '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: (8) The paving of roadways and the maintaining of roadways in a clean condition; and (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.'"

Ms. Reinbold also notes that while the facility "uses a sweeper truck equipped with water sprays on the haul roads within the facility, it does not appear that this type of control is adequate to prevent the deposition of coal dust onto the public roadways and berms from the coal hauling trucks," and she directs the facility to investigate alternative control measures to bring the company back into compliance. She also explicitly notes that "the current condition of the roadways represents a violation of requirements in the operating permit for the roadways and parking areas (emissions unit (EU) sic F001) at this facility" and that the "permit requires wheel washing to control drag-out from the unpaved roadways."

On February 19, 2010, the facility responded that "Oxford is still in the process of performing an economic evaluation regarding different types of wheel washers," even though the requirement for wheel washing in PTI 17-794 was effective July 19, 1990, and was affirmed in PTO P0037029, effective November 23, 1994. The facility also stated that "In the interim, Oxford will continue to apply water to all travel ways to minimize dust and utilize a sweeper truck to clean up any material that may inadvertently be drug out onto the roadway," which Ms. Reinbold had already asserted in her letter as appearing to be inadequate.

4. On July 27, 2010, Ms. Reinbold performed a third site visit and discovered that the wheel wash had still not been installed and that while "there was significantly less coal dust on the haul road and public road . . . some drag-out was present." Further, "emissions of fugitive coal dust" were visible "all around the coal piles, mostly from the trucks driving around the loading area but also from the coal being loaded onto the pile from a conveyor," potentially in violation of OAC rules 3745-17-08 and 3745-31-05 and PTI 17-794, which require control measures to minimize and eliminate fugitive dust. She noted a sweeper truck in use, but did not observe "any controls in place for fugitive dust."
5. On August 26, 2010, Ms. Reinbold performed a fourth site visit, observing a "significant amount of dust being generated by a conveyor dropping coal onto the pile from too high a height," potentially in violation of OAC rules 3745-17-08 and 3745-31-05 and PTI 17-794, which require control measures to minimize and eliminate fugitive dust.
6. On October 5, 2010, Ms. Reinbold issued a certified Complaint Investigation letter requesting an update on the facility's actions to resolve compliance issues. She, again, notes "drag-out of coal dust onto North Guernsey Street and State Route 7 in violation of Ohio's fugitive dust control rules" and that the "company has not confirmed that it has resolved the coal dust drag-out problem." Ms. Reinbold further explained that while she did not perform a visible emission test during her July 27, 2010, site visit, that it was "likely that official U.S. EPA Method 22 observations would have documented visible coal dust emissions in excess of six minutes per 60-minute period for the paved roadways and 13 minutes per 60-minute period for unpaved roadways and storage pile activity. These visible emission limits, as well as the requirement to implement reasonably available control measures to minimize or eliminate fugitive dust, are required by the operating permits issued for emissions units F001 (roadways) and F002 (storage piles) on November 23, 1994."

Ms. Reinbold also requested "an updated compliance plan and schedule for resolving the ongoing excess fugitive dust issues" that should be received within 30 days of receipt of her certified letter; the facility never responded. At this point, intermittent or steady non-compliance with OAC rules 3745-17-08 and 3745-31-05 and PTI 17-794, which require control measures to minimize and

eliminate fugitive dust, has reached 20 months; non-compliance with the wheel washing requirement of PTI 17-794 has reached 7,384 days or > 242 months.

Significant Non-Compliance

On February 20, 2013, DAPC SEDO received a complaint claiming that black clouds of coal dust were coming off the coal belt at the facility adjacent to East Coast Metal Systems. The complainant also requested that black dust in and around his place of employment be tested for coal dust.

On February 21, 2013, I investigated the complaint and found no visible emissions off the conveyor belt or single coal storage pile; the material was clearly wet and/or controlled with dust suppressants. A wheel wash had been installed (December 2012 as indicated subsequently) but was not running; no sweeper truck was observed. Complainant commented that street sweeping often occurs at night, without water, that product outside must be wrapped to be protected from coal dust, and that emissions of coal particulates are so significant that coal flakes occasionally fall from the heating, ventilation, and air conditioning (HVAC) vents in the front office, and all this was affirmed by the General Manager of East Coast Metal Systems, John Trifonoff. I collected two samples of particulates for analysis, one from inside the complainant's building (Sample #1) and one from outside the complainant's building (Sample #2).

Upon walking the front perimeter of the facility and outside the complainant's place of employment, coal dust was observed all over the ground. Clearly, coal dust had been deposited on adjoining properties by both wind and runoff surface water. Snow on the ground of the complainant's employer was black with coal dust; product outside the complainant's employer's building was dusted with coal dust; significant drag-out was observed on the pavement, tracked directly out of Oxford Mining's site. Coal dust blackened snow piles at the edges of the road in front of the facility. But most striking was the distance that coal dust was found on State Route 7 going north from the facility – drag-out continued for at least one quarter mile from the facility. All of these observations were photo-documented.

On March 1, 2013, I performed a site visit and observed no visible emissions from the coal storage piles, roadways, or barge load-out. The wheel wash was in operation, and significantly less new drag-out was present. However, a substantial amount of coal dust, coal particulates, and/or coal sludge was present on paved and unpaved roadways of the facility, adjoining property and roadways, and public roadways. All of these observations were photo-documented.

On March 7, 2013, I performed a site inspection, which included observations of emissions units, U.S. EPA Method 22 readings, and recordkeeping review. Kevin Campbell represented the facility. No visible emissions were observed from paved or unpaved roadways (F001) or coal crushing and material handling (F003). The wheel wash was in operation, and significantly less drag-out was present than on previous site

visits; State Route 7 and N. Guernsey Street had obviously been swept since my last visit, and a sweeper started operating after my arrival. Mr. Campbell stated that the wheel wash was installed December 2012 and began operating in the first week of 2013. Recordkeeping was being performed in accordance with the requirements of P0107064 (Chapter 31 modification to increase annual vehicle miles and throughput of raw coal storage piles and coal crushing, screening, and handling equipment, effective March 21, 2011), and, as recorded, maximum annual throughput was within maximum annual limits, i.e., below 6.132 M tons. Water sprayers on the crushers (part of F003) had malfunctioned, and a temporary spray was rigged; Mr. Campbell asserted that the water sprayers had been operational the day before (March 6, 2013) and that they would likely be fixed by the end of the day (March 7, 2013).

However, a substantial amount of coal dust, coal particulates, and/or coal sludge remained on paved and unpaved roadways of the facility, adjoining property and roadways. These observations were photo-documented. Particulate emissions were visible from coal storage piles (F002), and U.S. EPA Method 22 was performed. Visible emissions were also photo-documented. P0107064 allows visible emissions of fugitive dust from the material (coal) storage piles for a period of time not to exceed one minute during any 60 minute observation period; visible emissions per the Method 22 totaled two minutes, 31 seconds during a 60 minute observation period.

On March 8, 2013, results of the particulate sample analysis were received by SEDO DAPC. Sample #1 (indoor) was comprised of 35-40% coal dust, 45% quartz, calcite, and sand, and 15% chemical coniferous wood fibers; Sample #2 (outdoor) was comprised of 80-85% coal dust and 15-20% quartz calcite, and sand.

In accordance with Section 1. b)(2)b., d. of P0107064 and OAC 3745-31-05(A)(3), and to minimize or eliminate visible particulate emissions of fugitive dust:

- b. The permittee shall employ best available control measures on all paved and unpaved roadways and parking areas for the purpose of ensuring compliance with the above-mentioned applicable requirements. In accordance with the permittee's application, the permittee has committed to treat the paved and unpaved roadways and parking areas by sweeping and watering at sufficient treatment frequencies, to employ good housekeeping practices, to impose vehicle speed reduction requirements, and to utilize a wheel wash to ensure compliance. Nothing in this paragraph shall prohibit the permittee from employing other control measures to ensure compliance.
- d. The permittee shall promptly remove, in such a manner as to minimize or prevent resuspension, earth and/or other material from paved streets onto which such material has been deposited by trucking or earth moving equipment or erosion by water or other means.

In accordance with Section 2. b)(1)a. of P0107064, "no visible emissions of fugitive dust from the material [coal] storage piles except for a period of time not to exceed one minute during any 60-minute [sic] observation period" are permitted.

In accordance with the Standard Terms and Conditions of P0107064, item 14, and OAC rule 3745-15-07 prohibit operation of the air contaminant source(s) regulated under this permit in a manner that causes a nuisance. Ohio EPA can require additional controls or modification of the requirements of this permit through enforcement orders or judicial enforcement action if, upon investigation, Ohio EPA determines existing operations are causing a nuisance.

In accordance with Code of Federal Regulations Title 40, Section 60.258 d. (40 CFR 60.258 d.), "After July 1, 2011, within 60 days after the date of completing each performance evaluation conducted to demonstrate compliance with this subpart, the owner or operator of the affected facility must submit the test data to EPA by successfully entering the data electronically into EPA's WebFIRE data base available at <http://cfpub.epa.gov/oarweb/index.cfm?action=fire.main>. For performance tests that cannot be entered into WebFIRE (i.e., Method 9 of appendix A-4 of this part opacity performance tests) the owner or operator of the affected facility must mail a summary copy to United States Environmental Protection Agency; Energy Strategies Group; 109 TW Alexander DR; mail code: D243-01; RTP, NC 27711." AYER Quality Engineering LLC performed a visible emissions compliance test at the facility May 7, 2012.

Violations

Prior to my observations and inspection, DAPC staff made six site visits, documented two complaints, and issued two certified letters in an effort to compel the facility to gain compliance. To remedy these outstanding issues, the following violations are cited:

Pertaining to and as required by Section 1. b)(2)b., d. of P0107064 and OAC rule 3745-31-05(A)(3),

1. Permittee failed to utilize a wheel wash to minimize or eliminate fugitive dust and ensure compliance with all applicable laws and operated from July 19, 1990, until December 2012 (> 265 months) without wheel washing as a required air pollution control device;
2. Permittee failed to treat the paved and unpaved roadways and parking areas by sweeping and watering at sufficient frequencies to minimize or eliminate fugitive dust and ensure compliance with all applicable laws;
3. Permittee failed to employ good housekeeping practices to minimize or eliminate fugitive dust and ensure compliance with all applicable laws;
4. Permittee failed to promptly remove, in such a manner as to minimize or prevent

resuspension, earth and/or other material from paved streets onto which such material has been deposited by trucking or earth moving equipment or erosion by water or other means to minimize or eliminate fugitive dust and ensure compliance with all applicable laws;

5. Permittee failed to employ best available control measures on all paved and unpaved roadways to minimize or eliminate fugitive dust and ensure compliance with all applicable laws; and
6. Permittee failed to employ other control measures to minimize or eliminate fugitive dust and ensure compliance with all applicable laws.

Pertaining to and as required by Section 2. b)(1)a. of P0107064 and OAC rule 3745-31-05(A)(3), as effective 11/30/01,

7. Permittee failed to limit visible emissions from coal storage piles (F002) to one minute during any 60 minute observation period.

Pertaining to and as required by the Standard Terms and Conditions and Sections 1. b(2)e)(2), 2. b(2)e)(2), and 3. b(2)e)(2) of P0107064,

8. Permittee failed to submit an annual Permit Evaluation Report (PER) for calendar year 2011;
9. Permittee failed to note deviations or exceedances of emissions limitations for paved or unpaved roadways (F001) and coal storage piles (F002) in the PER for calendar year 2012 as enumerated in Violations 1-6 above.

Pertaining to and as required by the Standard Terms and Conditions of P0107064 and OAC rule 3745-15-07,

10. Permittee failed to operate air contaminant source(s) regulated under this permit in a manner that is not a public nuisance.

Pertaining to and as required by the Facility-Wide Terms and Conditions and Code of Federal Regulations Title 40, Section 60.258 d.,

11. Permittee failed to submit performance test data to U.S. EPA within 60 days of the last performance test, performed May 7, 2012.

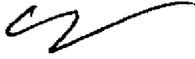
Within 15 days of receipt of this letter, please provide a written response to DAPC SEDO, attention Chad Ferguson, Ph.D., which confirms that the above violations of the terms and conditions of the facility's permit and applicable laws are completely and effectively remedied. Acceptance by Ohio EPA of this information does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in section 3704.06,

Mr. Gregory J. Honish
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Ohio Revised Code. The determination to pursue or to decline to pursue such penalties in this case will be made by Ohio EPA at a later date.

If you have any questions, please contact me at 740-591-1860 or chad.ferguson@epa.ohio.gov.

Sincerely,



Chad Ferguson, Ph.D.
Ohio EPA – Division of Air Pollution Control
Southeast District Office

CF/cs

cc: Dean Ponchak, SEDO, Ohio EPA
Bruce Weinberg, CO, Ohio EPA
John Paulian, CO, Ohio EPA
Brian Dickens, Region 5 U.S. EPA
Marcie Moore, Oxford Mining
Kevin Campbell, Oxford Mining