



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

February 10, 2016

CERTIFIED MAIL

Mark Whalen
Executive Vice President
Tube City IMS, LLC.
1344 Bowman Street
Mansfield, Ohio 44901

Re: Final Findings and Orders for violations of
air pollution regulations at 1344 Bowman
Street, in Mansfield, Ohio.

Dear Mr. Whalen:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,

A handwritten signature in black ink, appearing to read "James Kavalec", is written over a horizontal line.

James Kavalec, Manager
Compliance/Enforcement Section
Division of Air Pollution Control

xc: James Lee, PIC
Lee Tullis/John Paulian/Muhammad Mereb, DAPC
Stephan Feldmann, Legal Office

OHIO E.P.A.

FEB 10 2016

BEFORE THE

By: Daryl Cassel Date: 2-10-16

ENTERED DIRECTOR'S JOURNAL OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Tube City IMS, LLC
1344 Bowman St
Mansfield, Ohio 44901

:
:
:

Director's Final Findings
and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Tube City IMS, LLC ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

- Respondent's Mansfield facility ("the facility") is located at 1344 Bowman Street, in Mansfield, Richland County, Ohio. This facility processes scrap metal, mainly steel and it is identified by Ohio EPA facility ID0370010294. At the facility the scrap metal is sized and sorted with most of it going directly to AK Steel, which is connected to the Mansfield facility by private, unpaved roadways. The facility receives the scrap metal in trucks through the main public entrance. The facility also receives scrap and off-specification steel from AK Steel through the private, unpaved roadways. Respondent's headquarters are located at 1155 Business Center Drive, in Horsham,

Pennsylvania.

2. The following emission units at the facility are the subject of these Orders and are subject to Ohio EPA rules and regulations:

- P901: Lime receiving and handling;
- F002: Storage piles;
- F003: Load charging cell #1;
- F004: Load charging cell #2; and
- F005: Load charging cell #3.

3. OAC Rule 3745-15-06(B)(1) states, in part, that in the event that any emission source, air pollution control equipment, or related facility breaks down in such a manner as to cause the emission of air contaminants in violation of any applicable law, the person responsible for such equipment shall immediately notify Ohio EPA district office or delegated agency of such failure or breakdown. If the malfunction continues for more than 72 hours, the source owner or operator shall provide a written statement to the Director within two weeks of the date the malfunction occurred.

4. The facility is located in an Appendix A area under Ohio Administrative Code ("OAC") Rule 3745-17-08 and, therefore, the facility is required to employ reasonably available control measure ("RACM") on sources of fugitive dust emissions.

5. OAC Rule 3745-17-08(B) states, in part, that no person shall cause or permit any fugitive dust source to be operated; or any material to be handled, transported, or stored; or a road to be used without taking or installing RACM to prevent fugitive dust from becoming airborne.

6. ORC § 3704.05(C) prohibits any person who is a holder of a permit issued by the Director of Ohio EPA pursuant to ORC § 3704.03 from violating any of its terms and conditions.

7. ORC 3704.05(G) prohibits a person from violating any order, rule, or determination of the Director that was issued, adopted, or made under ORC Chapter 3704.

8. Permit-to-install and operate ("PTIO") P0115794 issued on December 13, 2013 which superseded permit-to-install ("PTI") 03-16297 issued March 31, 2005 required Respondent to use the baghouse as a Best Available Technology ("BAT") to control particulate emissions from emissions unit P901. The PTIO also required that visible particulate emissions from the baghouse stack not to exceed 0% opacity as a six-minute average and visible fugitive particulate emissions from the charge bucket building not to exceed 20% opacity as a three-minute average.

9. PTIO P0115794 also requires Respondent to monitor and record visible fugitive emissions from emissions units F002 to F005 on a weekly basis and from emissions unit P901 on a daily basis.

10. On April 20, 2015, Ohio EPA's Northwest District Office ("NWDO") received a complaint that a baghouse at the facility was not operational and causing excessive fugitive lime dust. The complaint also state that the dust caused visual impairments in the facility's yard and damage to the paint of vehicles exposed to the dust.

11. On April 22, 2015, NWDO investigated the complaint and determined that on March 17, 2015 a pipe failed in one of the four modules of the Carbo-Tech baghouse serving the charge bucket building, a portion of emissions unit P901. Respondent indicated that emissions unit P901 and the baghouse were shutdown as a result of observing visible emissions from the baghouse stack. NWDO determined that emissions unit P901 was shutdown from March 17, 2015 to March 18, 2015 as a result of the baghouse partial failure. It was also determined that emissions unit P901 resumed operation from March 19, 2015 to April 21, 2015 without operating the baghouse. In addition, NWDO observed excessive accumulation of dust surrounding the Carbo-Tech baghouse stack and the Charge Bucket Building; however, U.S. Method 9 readings were not taken because emissions unit P901 was not operating at the time of inspection.

12. As a result of the April 22, 2015 complaint investigation, Ohio EPA determined that Respondent had:

- a. operated emissions units P901 from March 19, 2015 to April 21, 2015 without the required baghouse, in violation of PTIO P0115794 and ORC § 3704.05(C);
- b. failed to immediately notify Ohio EPA about the baghouse malfunction, in violation of 3745-15-06(B)(1) and ORC § 3704.05(G);
- c. failed to monitor and record visible fugitive emissions from emissions units P901 and F002 to F005 since the permit was issued on December 13, 2013 until May 1, 2015. On May 16, 2011, Orders were issued to Respondent for similar monitoring and record keeping violations at emissions unit F001 (roadways and parking lots) at the facility, in violation of PTIO P0115794 and ORC § 3704.05(C); and
- d. failed to submit an accurate permit evaluation report ("PER") for the reporting period April 1, 2014 to March 31, 2015, in violation of PTIO P0115794 and ORC § 3704.05(C).

13. On April 28, 2015, NWDO sent a notice of violation ("NOV") letter to Respondent for the violations listed above and requested Respondent to submit a compliance plan and schedule.

14. From April 22, 2015 to April 27, 2015, Respondent operated the baghouse with only three of the four modules working. On April 28, 2015, Respondent repaired the fourth module of the baghouse.

15. The PER for the reporting period April 1, 2014 to March 31, 2015 was received on May 15, 2015. NWDO did not accept the report because it failed to identify the violations as a result of operating emissions unit P901 without an operating baghouse for from March 19, 2015 through March 31, 2015 of this reporting period.

16. Respondent's response to the NOV was received on May 28, 2015. Respondent stated that the emissions limit for emissions unit P901 was not exceeded from March 19, 2015 to April 21, 2015, despite the operation of the emissions unit without a baghouse because the emissions unit is enclosed by a building. It was also stated that since the shutdown of the baghouse did not result in an exceedance of permitted emission levels, it was determined that notification to Ohio EPA, as outlined in OAC Rule 3745-15-06(B), was not required. Respondent stated that it complied with the monitoring and recordkeeping requirements of the PTIO as of May 1, 2015. Finally, Respondent stated that it completed cleaning the buildup of lime dust on the charge bucket building and the baghouse.

17. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of ninety thousand dollars (\$90,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for seventy-two thousand dollars (\$72,000) of the total amount (split to Funds 6960 and 6A10). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining eighteen thousand dollars (\$18,000) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$18,000 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$18,000. The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying Respondent and Fund 5CD0, to the above-stated address.

3. Should Respondent fail to fund the SEP within the required time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$28,000 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, operations by Respondent.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio EPA
Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attention: Jennifer Jolliff

and to:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Jim Kavalec

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

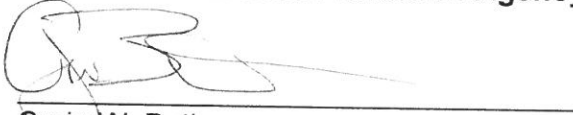
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED:

Ohio Environmental Protection Agency



Craig W. Butler
Director

2/9/16

Date

AGREED:

Tube City IMS, LLC



Signature

FEB 2 2016

Date

Mark Whalen

Printed or Typed Name

Exec. VP - Operations North America

Title