



MEMORANDUM

DATE:

TO: Missouri Air Conservation Commission

THROUGH: Leanne Tippet Mosby, Director
Division of Environmental Quality

FROM: Kyra L. Moore, Director
Air Pollution Control Program

SUBJECT: Attorney General's Office Referral Request for
Exide Technologies – Canon Hollow Plant

Exide Technologies – Canon Hollow Plant is a secondary lead smelting plant that receives batteries and breaks them apart to recycle the acid, plastic, and lead. The lead is recovered and smelted on site to form lead ingots.

On February 28, 2013, the Air Pollution Control Program (APCP) issued a Letter of Warning to Exide Technologies-Canon Hollow Plant for excessive downtime reported on the 3rd Quarter 2012 Continuous SO₂ Emissions Monitoring Report, which was submitted to the APCP on October 26, 2012.

The APCP received Exide Technologies – Canon Hollow Plant's 1st Quarter 2013 Continuous SO₂ Emissions Monitoring Report on May 6, 2013, which again documented excessive downtime due to a monitor equipment malfunction. The malfunction caused excessive downtime lasting 44.11% of operating time, which is a violation of Missouri Air Conservation Regulation 10 CSR 10-6.065, "*Operating Permits.*" The report stated the malfunctioning equipment would soon be replaced.

Because the facility had received a Letter of Warning for the previous violation, the APCP issued Notice of Violation #713AB1AP dated July 30, 2013, for this of Missouri Air Conservation Regulation 10 CSR 10-6.065, "*Operating Permits.*"

On August 21, 2013, the APCP mailed the Notice of Violation along with a Settlement Offer Letter to Exide Technologies – Canon Hollow Plant, which offered to settle the violation for a civil penalty.

On August 29, 2013, Mr. Peter Josendale, formerly of Exide Technologies - Canon Hollow Plant called the APCP regarding the Notice of Violation and Settlement Offer he received in the mail. Mr. Josendale stated Exide Technologies - Canon Hollow Plant would be willing to pay the entire civil penalty, however, Exide Technologies – Canon Hollow Plant could not pay the penalty directly because of the bankruptcy.

The APCP is also currently working with Exide Technologies on a State Implementation Plan to address a violation of the 2008 Lead National Ambient Air Quality Standard.

In addition, the Hazardous Waste Program is currently pursuing referral of Exide Technologies for violations of the Hazardous Waste Management Law. After discussions with the Attorney General's Office regarding the bankruptcy and the Hazardous Waste issues, it was determined the Attorney General's Office would be best posed to resolve the issues.

In light of failure to resolve the violations with conference, conciliation, and persuasion, the Air Pollution Control Program is requesting authority to refer the case to the Attorney General's Office to institute a civil action in a court of competent jurisdiction on behalf of the Missouri Air Conservation Commission and Missouri Department of Natural Resources. I recommend approval of this action.

KLM:ahv

c: Kansas City Regional Office



MEMORANDUM

DATE:

TO: Missouri Air Conservation Commission

THROUGH: Leanne Tippet Mosby, Director
Division of Environmental Quality

FROM: Kyra L. Moore, Director
Air Pollution Control Program

SUBJECT: Attorney General's Office Referral Request – Premier Petroleum, Incorporated

Premier Petroleum, Incorporated (Company), an incorporated business in good standing with the Secretary of State, owns Inner City Oil, a gasoline dispensing facility, located at 5600 Troost in Kansas City, Jackson County, Missouri.

On April 9, 2007, Kansas City Air Quality Program (KCAQ) staff issued a reminder letter regarding the need to conduct and pass required pressure/vacuum (P/V) testing to the Company's facility located at 5600 Troost.

On December 14, 2009, the Company was issued a Notice of Violation (NOV) for failure to conduct required P/V bench testing, a violation of Missouri Air Conservation Regulation 10 CSR 10-2.260, "*Control of Petroleum Liquid - Storage, Loading, and Transfer*," by KCAQ. P/V bench testing is required every two years. The Company responded within set time frame so no further enforcement action was taken and a written warning letter was issued to close the case.

On November 5, 2012, a KCAQ staff member hand delivered a reminder letter to the Company for its facility located at 5600 Troost. This facility's last passed P/V test was on July 27, 2010. The Company did not complete the P/V test within the required deadline. The letter informed the Company that the facility needed to complete and pass the P/V bench test and requested a response 30 days from receipt of the letter.

On December 18, 2012, KCAQ issued NOV #2012-NOV-86, to document the Company's violation of Missouri Air Conservation Regulation 10 CSR 10-2.260, "*Control of Petroleum Liquid - Storage, Loading, and Transfer*," for failure to conduct a bench test of each P/V valve every two years to demonstrate component vapor tightness.

On December 27, 2012, KCAQ received documentation of successful test results for P/V bench testing for the facility. The Company's facility remained out of compliance for 153 days.

On January 7, 2013, KCAQ hand delivered to the facility a settlement offer requesting the Company to pay a civil penalty to settle the violation. On January 30, 2013, KCAQ staff sent an email to Mr. Daniel Rechtfertig, as the representative and contact person of the Company, requesting he contact KCAQ office to discuss settling the NOV.

On February 4, 2013, KCAQ staff telephoned Mr. Rechtfertig to discuss settling the NOV. Mr. Rechtfertig stated he was in a meeting and would call back.

As of February 12, 2013, KCAQ had not received any contact from Mr. Rechtfertig or the Company regarding how to resolve this violation. Therefore, KCAQ referred the case to the Department's Air Pollution Control Program (APCP) for enforcement action.

On April 11, 2013, the APCP staff member handling the case contacted the Company via email to notify them that the case was assigned to him and that any questions or concerns regarding this case should be sent to him.

On April 18, 2013, the APCP mailed a Settlement Offer and Compliance Plan letter to Mr. Javid B. Chaudhri, president of the Company, offering a civil settlement and requesting a compliance plan from the Company.

On April 22, 2013, the Settlement Offer and Compliance Plan letter was delivered to the Company's address via certified mail.

On April 24, 2013, the APCP staff returned a call from Mr. Rechtfertig and spoke at length. The APCP explained that it is the Company's responsibility to keep track of when required testing is due and to perform those tests without having to be notified by KCAQ staff.

On April 30, 2013, the APCP received an email from the Company, which included a compliance plan. The email did not include a response regarding acceptance, reduction or elimination of the penalty amount.

On May 16, 2013, based on the information provided to the APCP in the compliance plan, the APCP mailed a revised settlement offer to the Company with a response requested by May 31, 2013. No response was received.

On June 13, 2013, the APCP mailed a final settlement offer to the Company with a response requested by June 28, 2013. This letter provided a final opportunity to settle the case before being put on the Missouri Air Conservation Commission agenda with the recommendation to

refer to the Attorney General's Office for further legal action. There has been no communication from the Company regarding a resolution of this violation since the April 30, 2013, email including the compliance plan.

In light of failure to resolve the violations with conference, conciliation, and persuasion, the Air Pollution Control Program is requesting authority to refer the case to the Attorney General's Office to institute a civil action in a court of competent jurisdiction on behalf of the Missouri Air Conservation Commission and Missouri Department of Natural Resources. I recommend approval of this action.

KLM:pvv

c: Jarrett Dillard, Kansas City Air Quality Program



MEMORANDUM

DATE:

TO: Missouri Air Conservation Commission

THROUGH: Leanne Tippet Mosby, Director
Division of Environmental Quality

FROM: Kyra L. Moore, Director
Air Pollution Control Program

SUBJECT: Attorney General's Office Referral Request – A. J. Partnership

A. J. Partnership (Company), an incorporated business in good standing with the Secretary of State, owns four gasoline dispensing facilities (GDFs) in Kansas City, Jackson County, Missouri: Everyday Store, located at 14808 East 40 Highway; Inner City Oil, located at 615 East Linwood; Sinclair, located at 1617 West 75th Street; Inner City Oil, located at 801 Prospect. Missouri Air Conservation Regulations require static leak decay testing of the Stage I vapor recovery system once every five years and bench testing of the pressure/vacuum (P/V) vents once every two years.

A. J. Partnership has a history of violations of the Missouri Clean Air Conservation Law. The following paragraphs document violations at the company's facility located at 14808 East 40 Highway:

- a. On July 20, 2004, the Company was issued a Notice of Excess Emission by Kansas City Air Quality Program (KCAQ) staff for failure to conduct required Stage I vapor recovery testing at its 14808 East 40 Highway facility. Stage I vapor recovery testing includes both a static leak decay test required every five years and a P/V bench test every two years. Testing was conducted and passed on August 10, 2004. No further enforcement action was taken.
- b. On April 9, 2007, the Company was issued a Notice of Violation (NOV) by KCAQ staff, for failure to conduct required Stage I vapor recovery P/V bench testing, a violation of Missouri Air Conservation Regulation 10 CSR 10-2.260, "*Control of Petroleum Liquid - Storage, Loading, and Transfer,*" for its facility at 14808 40 Highway. P/V bench testing is required every two years.
- c. On December 5, 2009, the Company was issued a NOV for failure of storage tank caps and fittings to be vapor tight when gasoline transfer is not taking place within a set time frame so no further enforcement action was taken and a written warning letter was issued to close the case.

- d. On January 26, 2012, the Company was issued a NOV for failure to complete required P/V bench testing at its 14808 East 40 Highway facility.
- e. On November 15, 2012, a KCAQ staff member hand delivered a reminder letter to the Company's facility located at 14808 East 40 Highway. This facility's last passed P/V test was on October 27, 2009. The Company did not complete the P/V tests within the required deadline. The letter informed the Company that the facility needed to complete and pass P/V bench tests and requested a response 30 days from receipt of the letter.

The following paragraphs document violations at the Company's facility located at 615 East Linwood:

- a. On April 9, 2007, the Company was issued a NOV by KCAQ staff, for failure to conduct required Stage I vapor recovery P/V bench testing, for its facility located at 615 East Linwood.
- b. On November 23, 2009, the Company was issued a NOV for failure to complete required P/V bench testing at its 615 East Linwood location. The Company responded within set time frame so no further enforcement action was taken and on August 3, 2010, a written warning letter was issued to close the case.
- c. On October 31, 2012, a KCAQ staff member hand delivered a reminder letter to the Company's facility located at 615 East Linwood. This facility's last passed P/V test was on August 3, 2010. The Company did not complete the P/V tests within the required deadline. The letter informed the Company that the facility needed to complete and pass P/V bench tests and requested a response 30 days from receipt of the letter.

The following paragraphs document violations at the Company's facility located at 1617 West 75th Street:

- a. On April 9, 2007, the Company was issued a NOV for failure to conduct required Stage I testing for its facility at 1617 West 75th Street.
- b. On December 14, 2009, the Company was issued a NOV for failure to conduct Stage I vapor recovery testing at its facility at 1617 West 75th Street. On March 1, 2010, testing was conducted and passed. KCAQ issued a warning letter and no further enforcement action was taken.
- c. On November 14, 2012, a KCAQ staff member hand delivered a reminder letter to the Company's facility located at 1617 West 75th Street. This facility's last passed P/V test was on March 1, 2010. The Company did not complete the P/V tests within the required deadline. The letter informed the Company that the facility needed to complete and pass P/V bench tests and requested a response 30 days from receipt of the letter.

The following paragraphs document violations at the Company's facility located at 801 Prospect Avenue:

- a. On July 19, 2011, the Missouri Department of Agriculture's Division of Weights and Measures conducted an inspection of the Company's facility located at 801 Prospect Avenue. An analysis of gasoline samples taken during this inspection indicated the gasoline had a Reid Vapor Pressure greater than 7.0 pounds per square inch. Missouri State Rule 10 CSR 10-2.330, "*Control of Gasoline Reid Vapor Pressure*," requires that no person sell, dispense, supply, offer for sale, offer for supply, transport or exchange for

trade, gasoline with a Reid Vapor Pressure greater than 7.0 psi in the counties of Jackson, Platte, and Clay between June 1 and September 15. On December 1, 2011, the Company was issued a NOV from Missouri Department of Natural Resources' Air Pollution Control Program (APCP) to document this violation. The APCP received no response from the Company regarding this violation.

- b. On November 1, 2012, a KCAQ staff member hand delivered a reminder letter to the Company's facility located at 801 Prospect Avenue. This facility's last passed P/V test was on June 30, 2010. The Company did not complete the P/V tests within the required deadline. The letter informed the Company that the facility needed to complete and pass P/V bench tests and requested a response 30 days from receipt of the letter.

On December 18, 2012, KCAQ issued NOVs #2012-NOV-075 to 14808 East 40 Highway, #2012-NOV-090 to 615 East Linwood, #2012-NOV-076 to 1617 West 75th Street, and #2012-NOV-078 to 801 Prospect Avenue, to document the Company's violations of Missouri Air Conservation Regulation 10 CSR 10-2.260, "*Control of Petroleum Liquid - Storage, Loading, and Transfer,*" for failure to conduct a bench test of each P/V valve every two years to demonstrate component vapor tightness.

On December 19, 2012, KCAQ received documentation of successful test results for P/V bench testing for the Company's facilities located at 14808 East 40 US Highway and 1617 West 75th Street. The Company's facility at 14808 East US 40 Highway remained out of compliance for 420 days. And the Company's facility at 1617 West 75th Street remained out of compliance for 294 days.

On December 28, 2012, KCAQ received documentation of successful test results for P/V bench testing for the Company's facilities located at 615 East Linwood and 801 Prospect Avenue. The Company's facility at 615 East Linwood remained out of compliance for 148 days. The Company's facility at 801 Prospect Avenue remained out of compliance for 182 days.

On January 7, 2013, KCAQ hand delivered, to each facility, a settlement offer requesting the Company to pay a \$500.00 penalty to settle the violation at that facility.

On January 30, 2013, KCAQ staff sent an email to Mr. Daniel Rechtfertig, as the representative and contact person of the Company, requesting he contact KCAQ office to discuss settling the NOVs.

On February 4, 2013, KCAQ staff telephoned Mr. Rechtfertig to discuss settling the NOVs. Mr. Rechtfertig stated he was in a meeting and would call back.

As of February 12, 2013, KCAQ had not received any contact from Mr. Rechtfertig or the Company regarding how to resolve these violations. Therefore, KCAQ referred the case to the Department's APCP for enforcement action.

On April 11, 2013, the APCP staff member handling the case contacted the Company via email to notify them that the case was assigned to him and that any questions or concerns regarding this case should be sent to him.

On April 18, 2013, the APCP mailed a Settlement Offer and Compliance Plan letter, to Mr. Javaid B. Chaudhri, president of the Company, offering a civil settlement and requesting a compliance plan from the company.

On April 22, 2013, the Settlement Offer and Compliance Plan letter was delivered to the Company's address via certified mail.

On April 24, 2013, the APCP staff returned a call from Mr. Rechtfertig and spoke at length. Mr. Rechtfertig discussed his concern that KCAQ staff did not notify him when the facilities are due for testing prior to expiration of current testing. The APCP explained that it is the Company's responsibility to keep track of when required testing is due and to perform those tests without having to be notified by KCAQ staff.

On April 30, 2013, the APCP received an email from the Company, which included a compliance plan. The email did not include a response regarding acceptance, reduction or elimination of the penalty amount.

On May 16, 2013, based on the information provided to the APCP in the compliance plan, the APCP mailed a revised settlement offer to the Company with a response requested by May 31, 2013. No response was received.

On June 13, 2013, the APCP mailed a final settlement offer to the Company, with a response requested by June 28, 2013. This letter provided a final opportunity to settle the case before being placed on the Missouri Air Conservation Commission agenda with the recommendation to refer to the Attorney General's Office for further legal action. There has been no communication from the Company regarding a resolution of these violations since the April 30, 2013, email including the compliance plan.

In light of failure to resolve the violations with conference, conciliation, and persuasion, the Air Pollution Control Program is requesting authority to refer the case to the Attorney General's Office to institute a civil action in a court of competent jurisdiction on behalf of the Missouri Air Conservation Commission and Missouri Department of Natural Resources. I recommend approval of this action.

KLM:pvv

c: Jarrett Dillard, Kansas City Air Quality Program



MEMORANDUM

DATE:

TO: Missouri Air Conservation Commission

THROUGH: Leanne Tippett Mosby, Director
Division of Environmental Quality

FROM: Kyra L. Moore, Director
Air Pollution Control Program

SUBJECT: Attorney General's Office Referral Request – Ms. Debbie D. (Stillman) Branson

On April 20, 2012, staff from the Missouri Department of Natural Resources' Northeast Regional Office (NERO) visited Ms. Branson's property located at 9344 State Road B, east of Auxvasse, in Callaway County, Missouri and documented a violation of the Missouri Air Conservation Law and the Missouri Solid Waste Management Law and implementing regulations. As a result of that investigation, on May 29, 2012, the NERO issued Ms. Branson, a Letter of Warning (LOW) for the improper disposal of regulated construction and demolition debris generated from the demolition of a garage. The LOW required the waste to be removed and receipts for the proper disposal be submitted to the NERO by June 28, 2012.

On August 21, 2012, the NERO informed Ms. Branson that the remaining waste generated by the demolition of the garage, had to be removed from her and her neighbor's property and sent for proper disposal. Ms. Branson was also advised that a violation of the open burning requirements could result in further enforcement action.

On September 20, 2012, the NERO returned and found that the waste had not been removed from either property as requested. It was determined the demolition waste identified on April 20, 2012, had been burned and/or buried as a means of disposal after being notified of the requirements by the department that the waste must be taken to a permitted landfill or transfer station for proper disposal.

On October 19, 2012, based on the observations and findings documented during the investigation, the department issued Notice of Violation #NER2012101121477842 to document the violation of Missouri Air Conservation Regulation 10 CSR 10-6.045, "*Open Burning Requirements.*"

On January 3, 2013, the department's Air Pollution Control Program (APCP) proposed a settlement and requested a compliance plan. Ms. Branson responded via fax on January 24, 2013. The response lacked a counter offer, but did provide a compliance plan.

On January 23, 2013, the APCP staff again attempted to make contact with Ms. Branson via telephone. This attempt was unsuccessful.

On January 30, 2013, the APCP staff again attempted to make contact with Ms. Branson via telephone. This attempt was unsuccessful.

On March 6, 2013, during an inspection of her property, Ms. Branson stated that she was unable to pay the entire civil penalty. Staff requested that Ms. Branson submit documentation that supports her claim of limited income and the inability to pay. To this date, the department has not received any information from Ms. Branson supporting her claims of inability to pay.

On December 17, 2013, the department's Solid Waste Management Program referred the solid waste violations to the Attorney General's Office.

In light of failure to resolve the violations with conference, conciliation, and persuasion, the Air Pollution Control Program is requesting authority to refer the case to the Attorney General's Office to institute a civil action in a court of competent jurisdiction on behalf of the Missouri Air Conservation Commission and Missouri Department of Natural Resources. I recommend approval of this action.

KLM:ewv

c: Mr. Peter Muzio, Northeast Regional Office
Ms. Mary Hopke, Northeast Regional Office
Mr. Todd Schneider, Solid Waste Management Program



MEMORANDUM

DATE:

TO: Missouri Air Conservation Commission

THROUGH: Leanne Tippett Mosby, Director
Division of Environmental Quality

FROM: Kyra L. Moore, Director
Air Pollution Control Program

SUBJECT: Attorney General's Office Referral Request – Mr. Dale Brewer

On April 20, 2012, staff from the Missouri Department of Natural Resources' Northeast Regional Office (NERO) investigated a report regarding the improper disposal of waste generated from the demolition of a garage on property located at 9344 State Road B near Auxvasse, in Callaway County, Missouri. On May 29, 2012, a Letter of Warning (LOW) was issued for violations of the Missouri Solid Waste Management Law. The LOW required the waste to be removed and receipts for the proper disposal be submitted to the NERO by June 28, 2012.

On September 20, 2012, a follow-up inspection was conducted at the property. Based on the observations during the inspection the NERO documented violations of the Missouri Solid Waste Management Law, section 260.210 RSMo and Missouri Air Conservation Regulation 10 CSR 10-6.045, "*Open Burning Requirements.*" Mr. Brewer and his associate burned and/or buried an estimated 40 cubic yards of regulated construction and demolition waste for disposal after being notified of the requirements by the department that waste must be taken to a permitted landfill or transfer station for proper disposal.

The NERO issued Notice of Violation (NOV) #NER2012100516586108 to Mr. Brewer for the open burning violation.

On January 3, 2013, the department sent a Settlement Offer Letter and requested a compliance plan. Mr. Brewer responded via telephone on January 16, 2013, and promised to submit a compliance plan within one week. A compliance plan was submitted but didn't offer a counter offer.

On March 26, 2013, APCP staff attempted to contact Mr. Brewer via telephone, twice. Both attempts were unsuccessful.

On April 4 and 19, 2013, APCP staff attempted to contact Mr. Brewer via telephone. Both attempts were unsuccessful.

On May 1, 2013, the APCP sent a certified letter to Mr. Brewer explaining that solid waste and air violations will be handled separately going forward.

APCP staff attempted to contact Mr. Brewer via telephone further on multiple occasions. Mr. Brewer failed to return telephone calls to the department.

On July 23, 2013, a final Settlement Offer Letter was sent to Mr. Brewer. Mr. Brewer failed to respond by the due date listed in the letter.

On December 17, 2013, the department's Solid Waste Management Program referred the solid waste violation to the Attorney General's Office.

In light of failure to resolve the violations with conference, conciliation, and persuasion, the Air Pollution Control Program is requesting authority to refer the case to the Attorney General's Office to institute a civil action in a court of competent jurisdiction on behalf of the Missouri Air Conservation Commission and Missouri Department of Natural Resources. I recommend approval of this action.

KLM:ewv

c: Mr. Peter Muzio, Northeast Regional Office
Ms. Mary Hopke, Northeast Regional Office
Mr. Todd Schneider, Solid Waste Management Program