

**BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI**

FILED

MAR 18 2010

ADMINISTRATIVE HEARING
COMMISSION

BUICK RESOURCE RECYCLING FACILITY, LLC,)
1801 Park 270 Drive)
St. Louis, MO 63146, Owner, 573-626-3406,)

THE DOE RUN COMPANY,)
18594 Highway KK)
Boss, MO 65440, Operator, 573-626-3406,)

and)

BUICK RESOURCE RECYCLING FACILITY,)
18594 Highway KK)
Boss, MO 65440, Facility, 573-626-3406,)

Petitioners,)

v.)

AHC No. _____

MISSOURI DEPARTMENT OF NATURAL)
RESOURCES,)
Harry Bozoian, General Counsel)
Missouri Department of Natural Resources)
1101 Riverside, Drive)
Jefferson City, MO 65101, 573-751-0323,)

DIVISION OF ENVIRONMENTAL QUALITY,)
Leeanne Tippet-Mosby, Director)
Division of Environmental Quality)
1101 Riverside, Drive)
Jefferson City, MO 65101, 573-751-6892,)

and)

HAZARDOUS WASTE PROGRAM,)
Bob Geller)
Hazardous Waste Program)
Missouri Department of Natural Resources)
1730 E. Elm Street)
Jefferson City, MO 65101, 573-751-3176,)

Respondents.)

NOTICE OF APPEAL FROM MODIFICATION OF PERMIT

The Doe Run Company and Buick Resource Recycling Facility, LLC (jointly, the “Permittee”), appeal the modification of their Missouri Hazardous Waste Management Facility Permit as follows:

1. The Missouri Department of Natural Resources, Division of Environmental Quality, Hazardous Waste Program (the “Department”), previously issued Missouri Hazardous Waste Management Facility Permit No. MOD059200089 (the “Permit”) for the Buick Resource Recycling Facility in Boss, Missouri (the “Facility”).
2. The Permit has the effective dates from March 15, 2005 through March 15, 2015.
3. The Facility receives lead-acid batteries and other lead bearing wastes (“Wastes”).
4. The Wastes are recycled to recover the lead and other trace metals, the sulfuric acid, and polyethylene plastic.
5. The Facility is a secondary lead smelting facility.
6. One of the permitted activities of the Facility is to store hazardous wastes in containers and containment buildings and to dispose of the treated hazardous waste generated by Doe Run at the Facility in an on-site landfill.
7. On or about October 28, 2009, Permittee submitted a Class 2 Permit Modification request to the Department.
8. One of the provisions included an agreement to cease using the Slag Storage Area Staging Bins (“SSASBs”), but it was submitted with the explicit condition that Permittee would be allowed to establish and utilize an on-site laboratory.
9. In 2008, the Department stated that prior to Permittee using an on-site laboratory it desired to review and approve the Qualified Assurance Project Plan (“QAPP”) for Permittee’s on-site laboratory.

10. Permittee maintains the position that the Department has no authority to require approval of the QAPP prior to the use of the laboratory; however, Permittee submitted an initial QAPP to the Department in November 2008.

11. Permittee submitted a final version of the QAPP in August 2009.

12. No determination or indication of intentions regarding approval of the QAPP has been received from the Department.

13. It would work a severe hardship on Permittee to have to cease using the SSASBs prior to being able to use the on-site laboratory.

14. On or about February 16, 2010, the Department issued a Class 2 Permit Modification to modify the Permit to, among other things, require that Permittee cease using the Slag Storage Area Staging Bins within thirty (30) calendar days of receipt of the Class 2 Permit Modification Approval. A true and correct copy of the Class 2 Permit Modification is attached as Exhibit A, and incorporated as if fully set forth herein.

15. This appeal is filed pursuant to 10 CSR 25-8.124(4)(B)2, 10 CSR 25-8.124(2) and § 260.400, RSMo.

16. This appeal is filed within thirty (30) days of the date of the decision of the Department to modify the Permit.

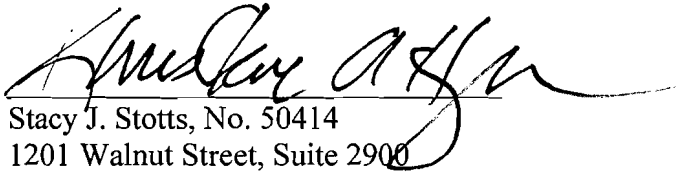
17. Permittee states that it is unlawful, unreasonable and an undue hardship to impose the requirement of ceasing the use of SSASBs until the Department has approved the submitted QAPP or otherwise approved of the on-site laboratory testing for hazardous waste.

18. Permittee does not appeal any other requirement of the Class 2 Permit Modification.

Wherefore, for the foregoing reasons, Permittee appeals from the requirement in the Class 2 Permit Modification that it must cease use of the Slag Storage Area Staging Bins within thirty (30) days of receipt of the Class 2 Modification.

Respectfully submitted,

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