



**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Air Pollution Control
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 15th Floor
Nashville, TN 37243**

April 11, 2022

Debi Pleasant
1311 E. Court St.
Dyersburg, Tennessee 38024-4810

Certified Article Number

9414 7266 9904 2170 1018 34

SENDER'S RECORD

RE: Ford Construction Company
Facility Id. 66-0191
Case No. APC21-0138

Dear Ms. Pleasant:

Enclosed, please find an Order and Assessment of Civil Penalty issued by Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, Tennessee Department of Environment and Conservation (TDEC), in the above-referenced matter. Please read it carefully and pay special attention to the Notice of Rights section.

If you have any questions regarding this Order and Assessment of Civil Penalty, please contact Michael D. Lewis at (615) 253-5337 or via e-mail at michael.d.lewis@tn.gov. For all other questions, please contact the TDEC Division of Air Pollution Control at (615) 532-0554 or via e-mail at air.pollution.control@tn.gov.

Sincerely,

A handwritten signature in blue ink that reads "Kevin McLain".

Kevin McLain
Section Manager, Enforcement
Division of Air Pollution Control

vom

Enclosure

TENNESSEE AIR POLLUTION CONTROL BOARD

IN THE MATTER OF:)	DIVISION OF AIR POLLUTION
)	CONTROL
FORD CONSTRUCTION COMPANY,)	
)	
)	
RESPONDENT.)	CASE NO. APC21-0138

**TECHNICAL SECRETARY’S ORDER AND
ASSESSMENT OF CIVIL PENALTY**

Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, states:

PARTIES

I.

Michelle Walker Owenby is the Technical Secretary of the Air Pollution Control Board (“Board”) and Director of the Division of Air Pollution Control (“Division”), Tennessee Department of Environment and Conservation (“Department”).

II.

Ford Construction Company (“Respondent”) is a domestic corporation authorized to do business in the State of Tennessee. Respondent’s facility address is 1610 Morgan Street, Union City, Tennessee. Respondent’s registered agent for service of process is Debi Pleasant, 1311 E. Court St., Dyersburg, Tennessee 38024-4810.

AUTHORITY

III.

The Technical Secretary may assess a civil penalty of up to \$25,000.00 per day for each day of violation of the Tennessee Air Quality Act, Tenn. Code Ann. §§ 68-201-101 to -121 (“Act”), or Tennessee Air Pollution Control Regulations, Tenn. Comp. R. & Regs. 1200-03-01 to -36; 0400-30-01 to -39, (“Rules”). Tenn. Code Ann. § 68-201-116. The Technical Secretary may issue an order for correction to the responsible person when provisions of the Act or Rules are violated, and such person may be liable for resulting damages to the State. *Id.*

IV.

Respondent is a “person,” Tenn. Code Ann. § 68-201-102(7), and has violated the Act and Rules.

V.

“Air contaminant” means particulate matter, dust, fumes, gas, mist, smoke, vapor, or any combinations thereof. Tenn. Code Ann. § 68-201-102(1).

VI.

“Air contaminant source” means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Tenn. Code Ann. § 68-201-102(2). Respondent operates an air contaminant source.

FACTS

VII.

On November 24, 2020, the Technical Secretary issued Conditional Major Source operating permit number 477129 (“Permit 477129”), (facility 66-0191), to Respondent for a 400 tons/hour drum mix asphalt plant.

VIII.

Condition S1-4.A. of Permit 477129 states:

Particulate Matter (PM) emitted from this source shall not exceed 0.04 grain per dry standard cubic foot of stack gases (12.64 pounds per hour).

40 CFR §60.92(a)(1), TAPCR 1200-03-09-.03(8), and TAPCR 1200-03-16-.08(3)(a) and construction permit 973417

Compliance Method: Compliance with this emission limitation shall be assured by complying with **Conditions G4, S1-2.A, and S1-5** of this permit. This source(s) shall not operate unless the control device(s) is installed and operate in a satisfactory manner. The permittee shall operate and maintain the baghouse control devices(s) to control PM emissions. The permittee shall monitor the baghouse control device(s) for this source as follows:

- 1) Install a pressure gauge to measure the pressure drop (inches of water) across the baghouse(s). Beginning no

later than 30 days after the issuance of this permit, the permittee shall compile 30 consecutive operating days of pressure drop readings across the baghouse(s). The designated person(s) shall note any relevant baghouse conditions/problems/concerns when recording the values.

- 2) Submit the pressure drop data, including a “proposed” minimum pressure drop value, to the Division at the address listed in **Condition G11** or via email, no later than 15 days after completion of the readings.
- 3) Assure continued compliance by maintaining the approved minimum pressure drop across each baghouse, recording one pressure drop per day while the source is in operation, maintaining the log found in **Attachment 2**, or an alternate log with the same information. The days when the source does not operate shall be noted in the log.

Upon review and approval of the test data by the Technical Secretary, the permittee shall demonstrate compliance with this condition by maintaining the approved minimum pressure drop across the baghouse(s). These records shall be retained in accordance with **Condition G5**.

IX.

On August 16, 2021, Division personnel conducted an inspection of Respondent’s facility. During the inspection, Division personnel discovered Respondent was missing pressure drop records for the period of November 24, 2020, through August 16, 2021, during which time Respondent’s facility was operating. Pressure drop values across the bag house were required to be recorded each day that the source is in operation. After recording 30 consecutive days of pressure drop readings, Respondent was required to submit the pressure drop values, as well as a “proposed” minimum pressure drop, within 15 days to the Division. Therefore, Respondent violated condition S1-4.A. of Permit 477129.

X.

On September 2, 2021, the Division issued a Notice of Violation to Respondent for failing to comply with condition S1-4.A. of Permit 477129.

XI.

On October 8, 2021, the Division received via e-mail Respondent's pressure drop logs for the time period of August 2, 2021, through October 7, 2021, and included a "proposed" minimum pressure drop. Therefore, no further corrective action is required.

VIOLATIONS

XII.

By failing to comply with condition S1-4.A. of Permit 477129, Respondent violated Division Rule 1200-03-09-.02(6), which states, in pertinent part:

Operation of each air contaminant source shall be in accordance with the provisions and stipulations set forth in the operating permit, all provisions of these regulations, and all provisions of the Tennessee Air Quality Act.

ORDER AND ASSESSMENT OF CIVIL PENALTY

XIII.

Respondent is assessed a civil penalty of \$1,500.00 for violation of the Act and Rules, to be paid to the Department at the following address:

Division of Fiscal Services - Consolidated Fees Section
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 10th Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

The civil penalty shall be delivered to the Department on or before the 31st day after receipt of this Order and Assessment of Civil Penalty. The case number, APC21-0138, should be clearly written on all correspondence.

RESERVATION OF RIGHTS

In issuing this Order and Assessment of Civil Penalty, the Department does not implicitly or expressly waive any provision of the Act or Rules promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against the Respondent(s). The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including,

but not limited to, monetary and injunctive relief. Compliance with this order will be considered as a mitigating factor in determining the need for future enforcement action(s).

NOTICE OF RIGHTS

The Respondent may appeal this Order and Assessment. Tenn. Code Ann. §§ 68-201-108(a) and 68-201-116(b). To do so, a written petition setting forth the reasons for requesting a hearing must be received by the Technical Secretary within 30 days of the date Respondent received this Order and Assessment or this Order and Assessment becomes final. Any petition for review must be directed to:

Commissioner of the Department of Environment and Conservation
c/o Jenny L. Howard, General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 2nd Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Law Judge (ALJ) as a contested case hearing. Tenn. Code Ann. § 68-201-108(a); Tenn. Code Ann. § 4-5-301 to -325; Tenn. Comp. R. & Regs. 1360-04-01. Such hearings are legal proceedings in the nature of a trial. Individual respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Artificial respondents (*e.g.*, corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue an appeal through an attorney licensed to practice law in Tennessee. Low-income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

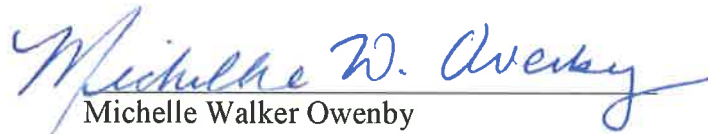
At the conclusion of any initial hearing, the ALJ has the authority to affirm, modify, or deny this Order and Assessment of Civil Penalty, including the authority to increase or decrease the penalty. Tenn. Code Ann. § 68-201-116. The ALJ, on behalf of the Board, has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing, and the hourly fees incurred due to the presence of the ALJ and a court reporter.

Technical questions and other correspondence involving compliance issues should be sent to:

Kevin McLain, Division of Air Pollution Control
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 15th Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

Attorneys should contact the undersigned counsel of record. The case number, APC21-0138, should be written on all correspondence regarding this matter.

Issued by the Technical Secretary, Tennessee Air Pollution Control Board, Department of Environment and Conservation, on this 11th day of April, 2022.



Michelle Walker Owenby
Technical Secretary
Tennessee Air Pollution Control Board

Reviewed by:



Michael D. Lewis
BPR # 033408
Assistant General Counsel
Department of Environment & Conservation
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
Phone: 615) 253-5337
Email: michael.d.lewis@tn.gov