



State of Ohio Environmental Protection Agency

STREET ADDRESS:

MAILING ADDRESS:

TELE: (614) 644-3020 FAX: (614) 644-3184

P.O. Box 1049
Columbus, OH 43216-1049

December 29, 2003

Mr. Tom Thomas, President
Newbury Sand & Gravel, Inc.
14757 Ravenna Road
Burton, OH 44021

CERTIFIED MAIL

**Re: Newbury Sand & Gravel, Inc., DAPC Facility ID # 02 28 00 0290
Non-compliance with OAC Chapters 3745-31 (Permit-to-Install) and 3745-35
(Permit-to-Operate) Regulations**

Dear Mr. Thomas:

The purpose of this letter is to inform you of Ohio EPA's concern regarding the unsuccessful efforts for more than three years by Newbury Sand & Gravel, Inc. (NS&G) to submit approvable permit applications in order to obtain a permit-to-install and permits-to-operate for the installation and operation of air contaminant sources. As a result, the violations of Ohio Administrative Code (OAC) Rules 3745-31-02 and 3745-35-02 and Ohio Revised Code (ORC) Section 3704.05(C) continue. You represent the third facility owner in that time period, with whom the staff of Ohio EPA's Division of Air Pollution Control (DAPC), located in the Northeast District Office (NEDO), along with the Lake County General Health District (LCGHD), have endeavored to bring NS&G into compliance with the applicable State and federal air regulations.

Ohio EPA's staff has continued technical interactions with your facility for this length of time, as opposed to referring NS&G for enforcement action, due to the frequency of ownership changes and difficulties in contacting facility representatives during the annual time period that NS&G has halted operations. We are aware that you assumed ownership of the facility in June 2002 and, depending upon the type of purchase, may be responsible for the non-compliant status of the facility under previous ownership.

However, since the time period of your ownership, my NEDO staff reviewed four separate permit-to-install (PTI) applications, three of which have been returned to NS&G as incomplete and, therefore, unapprovable by Ohio EPA. Currently, NEDO is reviewing the fourth PTI application, originally submitted on October 17, 2003. That application was determined to be technically incomplete, and an Ohio EPA letter on October 27, 2003 requested additional information necessary to process the permit application. While NS&G has responded to that request, NS&G's response did not contain all the required information. Numerous attempts to contact you by phone by NEDO staff have been unsuccessful.

Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

Mr. Tom Thomas, President
Newbury Sand & Gravel, Inc.
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I am aware of the ongoing efforts by NEDO to elicit the specific technical information from NS&G that will result in a complete permit application. I support those efforts, and urge you and your consultant to work with the NEDO staff to expedite all efforts to provide the requested technical information.

I have been informed by NEDO that your facility is close to ceasing operations for the year, if you have not all ready done so. I am informing you that failure to secure an approved PTI, prior to commencing operations at NS&G in 2004, will result in an enforcement action by Ohio EPA, which may include referral of the matter to the Ohio Attorney General's Office for legal action. My staff has worked with past NS&G owners and consultants attempting to resolve the technical and administrative issues at your facility, and will continue to do so with this latest permit application for the remainder of this month, after which it will be either approved by Ohio EPA, returned to NS&G as incomplete and unapproved, or proposed for denial by Ohio EPA.

If you have any questions regarding this letter, please contact the following:

- Mr. Dennis Bush, Environmental Manager, at (330) 963-1223,
- Ms. Tracy Gu, the engineer assigned to your facility, at (330) 963-1174, or
- Mr. Donald L. Vanterpool of Ohio EPA's Legal Office, at (614) 644-3037.

Sincerely,



Christopher Jones
Director

CJ:BP/ams

enclosures

cc: Bill Skowronski, Ohio EPA, NEDO, DO
Bob Princic, Ohio EPA, NEDO, DAPC
Tracy Gu, Ohio EPA, NEDO, DAPC
Donald L. Vanterpool, Ohio EPA, Central Office, Legal
Tom Kalman, Ohio EPA, Central Office, DAPC
Bert Mechenbier, Lake County General Heath District