

OHIO E.P.A.

AUG 17 2010

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

OmniSource Corporation : Director's Final Findings  
7575 W. Jefferson Blvd. : and Orders  
Fort Wayne, Indiana 46804 :

I certify this to be a true and accurate copy of the  
official documents as filed in the records of the Ohio  
Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

By: Don Lussier Date: 8-17-10

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to OmniSource Corporation ("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 the Respondent or of the facility (as hereinafter identified) 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

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3704.03 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter or law or fact. The Director of Ohio EPA makes the following findings:

1. Respondent's corporate office is located at 7575 W. Jefferson Blvd., Fort Wayne, Indiana. Respondent operates several scrap metal processing facilities in Ohio. These include the Lima Division, St. Marys Division, and Mansfield Division.

2. Ohio Administrative Code ("OAC") Rule 3745-31-02 requires that a person not allow the installation or modification of an air contaminant source without first applying for and obtaining a permit to install ("PTI"), except otherwise provided by rule or law.

3. Former OAC Rule 3745-35-02 required any owner or operator of an air contaminant source not subject to OAC Rule 3745-77-02 to apply for and obtain a permit to operate ("PTO") prior to operating any air contaminant source, except as otherwise provided by rule or law.

4. OAC Rule 3745-17-07(B)(4) states that there shall be no visible particulate emissions from any paved roadway or parking area except for a period of time not to exceed six minutes during any sixty-minute observation period.

5. OAC Rule 3745-17-07(B)(5) states that there shall be no visible particulate emissions from any unpaved roadway or parking area except for a period of time not to exceed thirteen minutes during any sixty-minute observation period.

6. 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 reasonably available control measures ("RACM") to prevent fugitive dust from becoming airborne.

7. OAC Rule 3745-17-08(B)(2) requires the periodic application of asphalt, oil, water, or other suitable dust suppression chemicals on dirt or gravel roads and parking lots as reasonably available control measures.

8. OAC Rule 3745-17-08(B)(7) requires the covering, at all times, of open bodied vehicles when transporting materials likely to become airborne as a reasonably available control measure.

9. OAC Rule 3745-17-08(B)(9) requires the prompt removal, in such a manner as to minimize or prevent resuspension, of earth or other material from paved streets onto which earth or other material has been deposited by trucking or earth moving equipment or erosion by water or other means.

10. OAC Rule 3745-15-07, in part, prohibits any person from causing, permitting or maintaining an air pollution nuisance, whereby the emission of any air contaminant or combinations of air contaminants, including dust, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property.

11. OAC Rule 3745-19-03(A), in part, prohibits any person or property owner from causing or allowing open burning in a restricted area except as provided in OAC Rules 3745-19-03(B) to (D) and in ORC § 3704.11.

12. ORC § 3704.05(G) prohibits any person from violating any OAC rule adopted by the Director of Ohio EPA. OAC Chapters 3745-15, 3745-17, and 3745-19 were adopted by the Director pursuant to ORC Chapter 3704.

## I. Lima Division

13. Respondent owns and operates a scrap metal recycling facility ("the facility") that is identified as the Lima Division. It is located at 1610 East 4<sup>th</sup> Street, Perry Township, Allen County, Ohio. The facility processes both ferrous and non-ferrous metals. These metals are hauled to and from the facility in large open bed trucks. The trucks travel on haul roads and a scale area inside the facility property. Fugitive dust is generated by the truck wheels on both paved and unpaved road surfaces on and off the facility property. The facility has two gates at East 4th Street, which is a public street immediately to the north of the facility. This public street is traversed by both company haul trucks as well as vehicles used by the general public. The facility is located in a non-Appendix A area with respect to the fugitive dust control requirements of OAC Rule 3745-17-08.

14. There are several residential homes near the facility and located on East 4th Street, Glenn Avenue, and Garland Avenue. Four of the homes are located on East 4th Street within 600 feet from one of the facility's gates; the closest is about 350 feet from the east gate. The haul trucks periodically may drag dirt from facility roadways onto East 4th Street, causing re-entrainment of fugitive dust from vehicles using this public street.

15. On February 22, 2006, August 16, 2006, and October 25, 2007, Ohio EPA, Division of Air Pollution Control, Northwest District Office ("NWDO") received complaints concerning excessive fugitive dust as a result of mud drag out from trucks exiting Respondent's facility onto East 4<sup>th</sup> Street.

16. In response to the complaints, NWDO representatives inspected the facility several times since February 2006. Dried mud was observed to have been deposited on East 4<sup>th</sup> Street from the trucks exiting the facility from the west gate. Visible emission ("VE") readings of the fugitive dust were conducted using U.S. EPA Reference Method 22 along East 4<sup>th</sup> Street in front of the facility. The following table shows the total time of VEs and the observation period for each date.

Date	Total time of VEs (minutes: seconds)	Observation period (minutes : seconds)
02/23/2006	10:45	22
08/18/2006	04:52	60
08/25/2006	07:33	60
10/30/2006	09:25	60
12/20/2006	01:58	60
05/09/2007	04:09	60
10/31/2007	05:12	60
04/30/2008	21:36	60
05/16/2008	03:36	60
05/23/2008	02:23	60

17. On April 30, 2008, NWDO distributed a survey to several residences in the neighborhood of Respondent's facility to assess whether the facility generated nuisance conditions. NWDO received completed surveys from eight different residents. Five of them are located on Glenn Avenue, two on East 4<sup>th</sup> Street, and one on Garland Avenue. The surveys detailed the following nuisance effects resulting from Respondent's operation of the facility:

- **Property damage (5 residents)**  
The residents indicated that they get dust on their houses regularly, and they have to power wash their houses several times per year. Moreover, they need to wash their cars more often.
- **Adverse effect on the comfortable enjoyment of property (7 residents)**  
The residents indicated that they can't sit outside and enjoy the outdoors the way they would like. Three of the residents indicated that they can't open the windows when the dust can reach their homes.
- **Public safety concerns (2 residents)**  
It was indicated that the trucks deposit clumps of dirt onto the road and that is a hazard that could cause an accident.

NWDO also believes that it is a public safety concern at East 4<sup>th</sup> Street when the dust emissions are blowing and causing limited visibility. Additionally, since there is a railroad track along the west boundary of the facility, a safety hazard may exist if a train is coming.

18. By not implementing adequate measures to control fugitive dust from the facility, Respondent is causing a public nuisance in violation of OAC Rule 3745-15-07.

19. NWDO sent several Notice of Violation ("NOV") letters to Respondent. The following table shows the dates of the NOV letters as well as the dates of Respondent's responses to these letters.

NOV Date	Date Respondent's Response Received (Date of Response)
03/31/2006	05/03/2006 (05/01/2006)
09/07/2006	10/13/2006 (10/11/2006)
11/07/2006	NA
10/19/2007	11/23/2007 (11/21/2007)
05/07/2008	06/10/2008 (06/09/2008)

20. The NOV letter of March 31, 2006 cited Respondent for causing a public nuisance in violation of OAC Rule 3745-15-07, and requested Respondent to submit a compliance plan to control the fugitive dust and subsequently correct the nuisance problem. The following table summarizes several specific dates Respondent has caused a public nuisance in violation of OAC Rule 3745-15-07 and ORC § 3704.05(G):

Date	Nuisance Type and Evidence
02/23/2006	<p><b>Property Damage:</b>            In response to the complaint received on February 22, 2006, a representative from NWDO visited the complainant's house and he observed an excessive amount of dust on the complainant's house (porch, siding and windows). He also observed the dust blowing from East 4<sup>th</sup> Street in the direction of the complainant's house. The complainant indicated that he washed his house three times per year as a result of this dust, using equipment that he bought for his own use. VE readings were conducted along East 4<sup>th</sup> Street, close to the complainant's house, using Method 22, and fugitive dust was visible for 10 minutes and 45 seconds during a 22-minute observation period.</p>
08/18/2006	<p><b>Property Damage:</b>            In response to a complaint received on August 16, 2006, a representative from NWDO visited the complainant's house, and he confirmed that there was an excessive amount of dirt on the complainant's house. The complainant indicated that he has to power wash his house regularly as a result of this ongoing problem. VE readings were conducted along East 4<sup>th</sup> Street, close to the complainant's house, using Method 22, and fugitive dust was visible for 4 minutes and 52 seconds during a 60-minute observation period.</p> <p>The NWDO representative informed the facility manager, Mr. David Dray, that the complainant has continuing concerns about the excessive dust emissions making his house dirty and that he has to power wash the house regularly. Mr. Dray indicated that they were aware of the complaints and had issued a purchase order for a sweeper to clean the concrete aprons inside the property, along with East 4<sup>th</sup> Street.</p>
10/31/2007	<p><b>Property Damage:</b>            In response to a complaint that was received on October 25, 2007, a representative from NWDO visited the complainant's house, and he observed an excessive amount of dust on the porch, windows, and siding. The complainant stated that he has to power wash his house regularly as a result of the excessive dust. VE readings were conducted along East 4<sup>th</sup> Street, close to the complainant's house, using Method 22, and fugitive dust was visible for 5 minutes and 12 seconds during a 60-minute observation period.</p>
04/30/2008	<p><b>Property Damage:</b>            A representative from NWDO visited the complainant's house to follow up on a nuisance complaint. The complainant stated that the nuisance still exists and that he already power washed his house once this year. He indicated that he has been power washing his house three times per year, and he was concerned about water getting into the house insulation</p>

	<p>underneath the siding because of the high pressure (1,200 pounds per square inch). NWDO representatives took pictures of the dust accumulation on the porch and windows of the complainant's house as well as equipment in the garage. The representative also completed a videotaping that shows dust blowing in the direction of the complainant's house coming from East 4<sup>th</sup> Street.</p> <p>The NWDO distributed a dust nuisance survey in the neighborhood. In the responses to the dust nuisance survey, it was indicated by 4 residents, in addition to the complainant, that they get dust on their houses regularly and they have to power wash their houses several times per year. They also indicated that they need to wash their cars more often. VE readings were conducted along East 4<sup>th</sup> Street, close to the complainant's house, using Method 22, and fugitive dust was visible for 21 minutes and 36 seconds during a 60-minute observation period.</p> <p><b>Public Welfare:</b> In the dust nuisance survey, it was indicated by 7 residents that they can't sit outside and enjoy the outdoors the way they would like. Also they indicated that they can't open the windows when the dust reaches their homes.</p> <p><b>Public Safety:</b> In the dust nuisance survey, it also was indicated by 2 residents that the clumps of dirt deposited by the trucks onto East 4<sup>th</sup> Street create hazardous conditions that could cause an accident.</p>
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21. On April 30, 2008, NWDO representatives noticed that the existing tire grate system has minimal use. Most haul trucks were observed exiting the facility without using the system.

22. In the June 10, 2008 response to the NOV of May 7, 2008, Respondent indicated that at the time of NWDO's inspection there was significant traffic on the haul roads and on East 4<sup>th</sup> Street which did not allow these areas to be swept or watered. Respondent suggested changing the traffic patterns within the yard to allow for sweeping and watering more frequently.

23. Respondent is currently implementing the following measures to reduce mud drag out and the subsequent fugitive dust emissions.

Measure	Purpose	Start Date
Sentinel Vacuum Sweeper	To remove dirt from concrete apron areas on the facility and from East 4th Street.	09/25/2006
Tire thumper at scale	To remove mud attached to trucks tires before exiting the facility and subsequently reduce/eliminate mud drag out to East 4 <sup>th</sup> Street.	09/01/2008
Changed Traffic patterns	To increase the frequency of sweeping and to force vehicles to use the tire grate.	06/01/2008
Water Truck	To water unpaved and paved haul roads on the facility.	NA
Improved traffic surfaces inside yard	To cover unpaved roadways and subsequently prevent mud creation after rain events.	06/01/2008

## II. St. Marys Division

24. Respondent's St. Marys facility ("the facility") is located at 4575 CR 33A, in St. Marys Township, Auglaize County, Ohio. It is a metal scrap recycling facility that processes both ferrous and non-ferrous metals. The vast majority of the material enters and leaves the facility by heavy trucks. The metals are sorted on site and then resold to the steel industry and foundries. The facility is located in a non-Appendix A area.

25. Respondent purchased the St. Marys facility from St. Marys Iron & Steel Corporation in 1989. The processes and activities conducted by St. Marys Iron & Steel Corporation included the use of conventional torches to cut various scrap metal commodities. Respondent continued to use the conventional torch cutting process after purchasing the business and facility from St. Marys Iron & Steel Corporation. Respondent began utilizing a jet torch on or around March 2003.

### Violations Concerning the Emissions from the Jet Torches

26. On June 28, 2004, NWDO received a complaint concerning the torch cutting plume from Respondent's facility as well as a few recent fires that the fire department was called out on.

27. On July 7, 2004, in response to the complaint, NWDO inspected Respondent's St. Marys facility. It was determined that Respondent held no permit for the torches. NWDO inspectors witnessed a small fire from cutting a forklift using the torch. The forklift had oil on the engine, rubber hoses, and plastic wire casing.

28. On October 26, 2005, NWDO received a complaint concerning the ongoing smoke from Respondent's St. Marys facility. The complainant stated that there are many days when a thick yellow cloud was darkening the sky above Respondent's St. Marys facility as a result of the torch cutting process.

29. On December 14, 2005, NWDO sent a letter to Respondent. The letter stated that NWDO determined that each torch is an "air contaminant source;" therefore, Respondent is required to apply for the appropriate permits in accordance with OAC Rule 3745-31-02 and OAC Rule 3745-35-02.

30. On March 20, 2006, Respondent's response to the letter of December 14, 2005 was received by NWDO. Respondent indicated that the facility was acquired in 1989 from St. Marys Iron & Steel Corporation. Respondent stated that it operated the conventional torches since 1989; however, in March 2003 Respondent began utilizing the jet torches.

31. On May 11, 2006, NWDO sent a NOV to Respondent. The NOV stated that the change to the jet torches in March 2003, constituted a "modification" to the operation as defined in OAC Rule 3745-31-01(PPP). Respondent violated OAC Rule 3745-31-02 and OAC Rule 3745-35-02 by installing and operating the jet torches prior to obtaining a PTI and PTOs. The NOV also requested Respondent to control emissions from this operation such that visible emissions do not exceed 20% opacity as a 3-minute average. The PTI application was received on May 19, 2008, and the PTIO was issued August 6, 2009.

32. On June 9, 2006, NWDO received Respondent's response to the NOV of May 11, 2006. Respondent believed that "de minimis" may apply to the jet torching operation. Respondent requested an additional 90 days to submit the PTI application.

33. On August 11, 2006, NWDO received a complaint concerning very thick smoke from Respondent's St. Marys facility.

34. On September 19, 2006, NWDO met with Respondent to discuss a control system for the torch. Respondent indicated that they purchased a "dust boss" (water misting system) as an interim control measure while continuing to work on a permanent control system and the permit applications.

35. On December 21, 2006, Respondent met with NWDO, and it was indicated that a budget had been approved for a portable 3-sided enclosure with a baghouse for the torch.

36. On January 19, 2007, NWDO received a complaint concerning the continued smoke from the torch cutting process. In response to this complaint, NWDO visited the site on January 24, 2007 and noticed a large plume as a result of the torch cutting process.

37. On February 1, 2007, a representative from NWDO was in the area on other business and noticed the generation of a large plume of varying colors from the torch cutting process.

38. On April 20, 2007, NWDO visited the facility and a fire resulting from using the torch to cut a mobile home roof was observed upon arrival. In response, a NOV was

sent to Respondent on April 25, 2007. The NOV cited Respondent for the violation of OAC Chapter 3745-19.

39. On July 25, 2007, NWDO received a complaint concerning yellow smoke resulting from the torch cutting process at Respondent's facility.

40. On August 30, 2007, NWDO received Respondent's response to the follow-up NOV of June 27, 2007. The response included a comprehensive plan to address the open burning activities at the facility. This included the implementation of the "Prohibited Material Policy," the use of fire extinguishers and sand, and the utilization of the torch enclosure.

41. On April 16, 2008, NWDO sent a NOV to Respondent concerning the delay in installing the control measure for the jet torches. Respondent was requested to submit a compliance plan and schedule in addition to the PTI/PTO applications by May 16, 2008.

42. On May 19, 2008, NWDO received Respondent's response to the NOV of April 16, 2008 along with the PTI application. Respondent indicated that the installation of the enclosure to control the emissions from the jet torch had begun in May 2008, and the enclosure was scheduled to be operational by the end of July or the beginning of August 2008. Respondent estimated the total cost of the jet torch emission control system to be about \$146,000.

43. On May 29, 2008, Respondent informed NWDO by e-mail that it has 8 standard torches and 2 jet torches at the facility.

44. On May 30, 2008, NWDO received a complaint concerning orange/yellow smoke from Respondent's facility. The complainant listed the times and dates of 8 similar events since May 5, 2008.

45. On July 14, 2008, August 6, 2008, November 14, 2008, and January 8, 2009, Respondent updated NWDO by phone or e-mail on the status of the torch enclosure. Based on the update of January 9, 2009, the enclosure became operational on December 2008, except for a few fine-tuning adjustments to get the maximum performance.

46. The fires created by Respondent as a result of the torch cutting process are considered open burning, in violation of OAC Chapter 3745-19 and ORC § 3704.05 (G).

47. Respondent failed to apply for and obtain a PTI prior to the installation of the jet torches in 2003, in violation of OAC Rule 3745-31-02 and ORC § 3704.05 (G). The PTI application was received on May 19, 2008 and the PTIO was issued August 6, 2009.

48. Respondent failed to apply for PTO prior to the operation of the jet torches which were installed in 2003, in violation of OAC Rule 3745-35-02 and ORC § 3704.05 (G). The PTO application was received on May 19, 2008.

49. Respondent failed to employ Best Available Technology ("BAT") for the jet torch cutting operation, in violation of OAC Rule 3745-31-05(A)(3) and ORC § 3704.05 (G).

**Violations concerning the mud drag-out from the facility onto CR 33A**

50. Since March 24, 2006, NWDO has received several complaints concerning the emissions of fugitive dust as a result of the mud drag out from Respondent's facility onto CR 33A Street. The following table lists the dates of the complaints and the dates of the corresponding facility inspections.

Complaint Date	Inspection Date
03/24/2006	05/01/2006
05/15/2006	NA
10/27/2006	NA
11/01/2006	12/13/2006
12/14/2006	01/24/2007
NA	02/01/2007
02/26/2007	04/20/2007

51. Respondent indicated during the facility inspection of May 1, 2006, that it had a larger sweeper that broke down a year or two back. Respondent also indicated that on March 20, 2006, an outside company had been hired to come with a larger sweeper for 3 evenings a week.

52. On March 5, 2007, Respondent informed NWDO that Respondent is in the process of installing a mechanical tire thumper device in the facility as well as installing a road sweeper attachment to Respondent's front-end loader.

53. On August 7, 2009, Respondent stated that it installed/purchased the following control measures to address the VE violations at the facility:

- Improved traffic surfaces inside yard.
- Sweeper.
- Excavation and drainage work to dry roadways.
- Creating swales to dry roadways, and
- Tire thumper at scale.

54. Respondent caused a public nuisance by generating excessive fugitive dust emissions as a result of the mud drag-out from its facility to the public road, in violation of OAC Rule 3745-15-07 and ORC § 3704.05 (G). NWDO has not received complaints since August 2008, suggesting that the new measures corrected the problems.

55. Respondent failed to apply for a PTO for its facility roadways and parking areas, in violation of OAC Rule 3745-35-02 and ORC § 3704.05 (G).

### III. Mansfield Division

56. Respondent's Mansfield facility ("the facility") is located at 1500 Old Bowman Street, in Mansfield, Richland County, Ohio. This location is an Appendix A area. This metal scrap recycling facility processes both ferrous and non-ferrous metals. Scrap metal is received by truck, rail, and through public drop-off. The metals are sorted on site and then resold to the steel industry and foundries.

#### Fugitive Dust and Public Nuisance Violations:

57. The day-to-day activities at the facility directly impact Old Bowman Street, the paved, public street on which the facility is located. The metal is hauled to and from the facility, mainly in large, open-bed trucks. These trucks have been responsible for dragging dirt from Respondent's facility onto Old Bowman Street. Fugitive dust is generated from traffic on the road.

58. Since August 2, 2004, NWDO has received 25 complaints concerning the emissions of fugitive dust as a result of the mud drag out from Respondent's Mansfield facility onto Old Bowman Street. The following table lists the dates of the complaints and the dates of the corresponding facility inspections.

Complaint Date	Inspection Date	Complaint Date	Inspection Date
08/02/2004	08/03/2004	04/17/2007	NA
10/27/2004	11/09/2004	04/23/2007	NA
NA	02/02/2005	04/30/2007	05/03/2007
08/16/2005	NA	NA	06/14/2007
02/22/2006	02/22/2006	07/16/2007	07/24/2007
03/24/2006	NA	07/24/2007	07/24/2007
04/11/2006	NA	08/07/2007	08/16/2007
04/19/2006	NA	NA	09/05/2007
04/20/2006	NA	NA	09/28/2007
05/05/2006	NA	11/28/2007	NA
05/09/2006	05/10/2006	04/07/2008	NA
05/10/2006	05/10/2006	04/08/2008	NA
05/30/2006	05/31/2006	04/16/2008	04/30/2008
06/27/2006	07/06/2006	NA	05/06/2008
11/27/2006	NA	NA	03/30/2010
03/27/2007	NA		

59. NWDO recorded the following VE readings using U.S. EPA Method 22, that were in violation of OAC Rules 3745-17-07(B)(4) and (5).

Date	Location	VE (minutes: seconds)	Observation (minutes)
08/03/2004	Auxiliary yard (unpaved)	14:29	30
08/03/2004	Old Bowman Street	06:17	17
11/09/2004	Old Bowman Street	13:35	20
02/22/2006	Old Bowman Street	06:42	54
05/03/2007	Old Bowman Street	06:12	41
09/28/2007	Old Bowman Street	07:34	43
05/06/2008	Old Bowman Street	05:14	45
03/30/2010	Old Bowman Street	01:19	04

60. NWDO observed that Respondent did not employ RACM to prevent fugitive dust from becoming airborne at its facility, in violation of OAC Rule 3745-17-08(B), on the following dates: August 3, 2004, November 9, 2004, February 22, 2006, May 31, 2006, May 3, 2007, June 14, 2007, September 28, 2007, May 6, 2008, and March 30, 2010.

61. The following table lists the dates of the NOV letters sent to Respondent by NWDO since August 2004 and the dates of Respondent's responses:

NOV Date	Response Received (Dated)
08/06/2004	08/30/2004 (08/25/2004)
11/18/2004	12/08/2004 (12/08/2004)
03/14/2006	04/19/2006
05/25/2007	09/18/2007 (09/18/2007)
10/03/2007	10/23/2007 (10/22/2007)
05/08/2008	06/02/2008 (05/29/2008)
04/01/2010	04/26/2010 (04/23/2010)

62. The NOV letters cited the following violations by Respondent:

- o Violation of OAC Rule 3745-17-07(B)(4) for visible emissions from a paved roadway (Old Bowman Street) in excess of six minutes during any sixty-minute observation period.
- o Violation of OAC Rule 3745-17-07(B)(5) for visible emissions from an unpaved roadway or parking area in excess of thirteen minutes during any sixty-minute observation period.

- Violation of OAC Rule 3745-17-08(B)(2) for failure to periodically apply water or other suitable dust suppression chemicals on dirt or gravel roads and parking lots and other surfaces which can cause emissions of fugitive dust.
- Violation of OAC Rule 3745-17-08(B)(9) for failure to promptly remove earth or other material from paved streets.
- Violation of OAC Rule 3745-17-08(B)(7) for failure to cover open-bodied vehicles when transporting materials likely to become airborne.
- Violation of OAC Rule 3745-15-07 for creating a public nuisance as a result of not employing RACM. This violation was first cited in the NOV letter of March 14, 2006.
- Violation of ORC § 3704.05(C) for violations of visible emission limits established in a PTI.

63. Respondent submitted its compliance plan on November 8, 2004, and the plan included the following:

- Apply dust suppressant on all plant roadways as needed to maintain compliance with the fugitive dust regulations and maintain a log book to document all dust suppressant applications.
- Apply stone to plant roadways as necessary to minimize dust generated by truck and equipment traffic.
- Install rumble strips at the outbound scales to assist in removal of mud and dirt from truck and trailer tires, prior to exiting the facility.
- Contract with a company to sweep Old Bowman Road three times per day (weather permitting).

64. A NOV letter was issued on March 14, 2006. In the NOV, NWDO indicated that based on the continued complaints and the recent inspection, it appeared that the control methods being employed by Respondent had been not adequate. NWDO recommended that Respondent install a truck wheel wash or similar equipment to keep debris from being deposited onto Old Bowman Road. Respondent was requested to submit a new compliance plan and schedule by April 21, 2006.

65. Respondent submitted a revised compliance plan on April 24, 2006. The draft compliance plan included the following:

- Improve drainage infrastructure near the north entrance.

- Increase the amount of concrete paving adjacent to the scales.
- Fabricate and install a tire grate adjacent to the south scales to aid in the removal of trapped tire mud.
- Improve existing drainage manholes so that they don't clog easily from mud.
- Increase frequency of mechanical and vacuum sweeping.
- Review and test various dust suppression chemicals to be applied on unpaved roadways; these include emulsified asphalt, calcium chloride, magnesium chloride, and synthetic oil-based palliative.
- Regrade all major haul roads and truck access areas with a topping of asphalt grindings.
- Review traffic patterns to maximize truck traffic through the south scale area.

66. Since August 2008 NWDO has not received complaints, suggesting that the new control measures at the facility corrected the nuisance problem. The final compliance plan was received on September 18, 2007 as part of Respondent's response to the NOV of May 25, 2007. The final compliance plan included the following:

- Order a street sweeper.
- Add a new 20,000 square feet concrete surface at the southeast corner of the facility.
- Improve the drainage system within Old Bowman Street.
- Design and fabricate a mud grate/tire thumper to facilitate the removal of mud from truck tires prior to exiting the facility.
- Survey drainage ditch elevations and clean the ditches to facilitate proper site drainage.
- Install a drainage system within the facility to facilitate proper storm water collection.
- Install approximately 18,500 square feet of new concrete roadways within Old Bowman Street.
- Install approximately 7,200 square feet of new concrete parking areas between Old Bowman Street and the existing office building.

- Install approximately 10,000 square feet of concrete surface around the existing maintenance building.
- Install approximately 35,000 square feet of new concrete facility drives and a parking area around the non-ferrous warehouse and maintenance garage.

67. Respondent failed to submit a fugitive dust control plan within the required time frame, in violation of OAC Rule 3745-17-04(A)(1)(a). Respondent was requested to submit its compliance plan and schedule by June 29, 2007; and the plan was received by NWDO on September 18, 2007.

**PTI Violations:**

68. Respondent failed to apply for a PTI when the auxiliary yard was acquired in 1990, in violation of OAC Rule 3745-31-02 and former OAC Rule 3745-35-02.

69. From 2004 to May 3, 2007, the amount of scrap processed by Respondent increased from 8,000 tons per day to 40,000 tons per day. This change is considered to be a modification of the roadways and parking areas that would have increased fugitive particulate emissions and would have required new PTI and PTO applications. Respondent violated OAC Rule 3745-31-02 and Rule 3745-35-02.

70. On May 25, 2007, NWDO sent a NOV letter to Respondent. The NOV cited the above PTI and PTO violations. The PTI/PTIO application required in the May 25, 2007, was received by NWDO on October 25, 2007. The final PTI for the roadways and parking areas for the Mansfield facility was issued January 10, 2008.

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

**V. ORDERS**

The Director hereby issues the following Orders:

1. Upon the effective date of these Orders and continuing thereafter, Respondent shall comply with the requirements of OAC Rule 3745-15-07 and shall employ the dust control measures, meet the visible emission limitations, and comply with all the monitoring, record keeping, reporting and testing requirements, as specified in PTIO P0105933 for the roadways and parking areas at the Lima Division facility. Nothing in these

Orders shall prohibit Respondent from employing additional control measures to ensure compliance.

2. Upon the effective date of these Orders and continuing thereafter, Respondent shall comply with the requirements of OAC Rule 3745-15-07, shall comply with all BAT requirements and shall employ the dust control measures, meet the visible emission limitations, and comply with all the monitoring, record keeping, reporting and testing requirements, as specified in PTIO 03-17451, for the roadways, parking areas and the jet torching operations at the St. Marys Division facility. Nothing in these Orders shall prohibit Respondent from employing additional control measures to ensure compliance.

3. Upon the effective date of these Orders and continuing thereafter, Respondent shall comply with the requirements of OAC Rule 3745-15-07 and shall employ the dust control measures, meet the visible emission limitations, and comply with all the monitoring, record keeping, reporting and testing requirements, as specified in PTIO P0105616, for the roadways and parking areas at the Mansfield Division facility. Nothing in these Orders shall prohibit Respondent from employing additional control measures to ensure compliance.

4. Respondent shall pay the amount of one hundred sixty-three thousand and nine hundred dollars (\$163,900) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within fourteen (14) 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 sixty-six thousand one hundred and twenty dollars (\$66,120) of the total amount. The official check shall be submitted to Brenda Case, 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

A payment submittal shall be considered timely if the date postmarked on the envelope is on or before the date it is due.

5. A copy of the above check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

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

6. In lieu of paying the remaining ninety-seven thousand seven hundred and eighty dollars (\$97,780) of the civil penalty to Ohio EPA, Respondent shall fund the supplemental environmental project ("SEP") identified in Order 7 and shall perform the penalty credit projects outlined in Orders 8 and 9. Of the \$97,780, \$32,780 shall be used to fund the SEP identified in Order 7, and \$65,000 shall be used to fund the projects identified in Orders 8 and 9.

7. Respondent shall, within fourteen (14) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of thirty-two thousand seven hundred and eighty dollars (\$32,780) 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 \$32,780. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address. A payment submittal shall be considered timely if the date postmarked on the envelope is on or before the date it is due.

8. As expeditiously as practicable but not later than within two hundred seventy (270) days after the effective date of these Orders, as a penalty credit project completed pursuant to Order 6 to further minimize fugitive dust emissions in the vicinity of Respondent's Lima Division facility, Respondent shall complete paving of the three unpaved areas identified as Retail (approximately 11,460 square feet), Commercial #1 (approximately 16,800 square feet), and Commercial #2 (approximately 14,650 square feet) at its Lima Division facility. Within thirty (30) days after the completion of the paving project, Respondent shall submit a report to Ohio EPA that indicates the date by which the paving project was completed and provides documentation of the expenditure of at least one hundred eighty-five thousand dollars (\$185,000) for the paving project. The completion report shall be considered timely if the date postmarked on the envelope is on or before the date it is due.

9. Within one hundred fifty (150) days after the effective date of these Orders, as a penalty credit project completed pursuant to Order 6, Respondent shall purchase and begin using a mechanized sweeper on paved surfaces and the impacted portions of the public roadways at its Toledo Division facility and move and begin using the Toledo facility's existing sweeper on paved surfaces and the impacted portions of the public roadways at the St. Marys Division facility. Within thirty (30) days after the implementation of the sweepers, Respondent shall submit a report to Ohio EPA that provides the type and specifications of the sweepers, the date each was implemented pursuant to this paragraph, and documentation of the expenditure of at least one hundred fifty thousand dollars

(\$150,000) for the purchase of the Toledo sweeper. This report shall be considered timely if the date postmarked on the envelope is on or before the date it is due.

10. Should Respondent fail to spend at least \$185,000 on the paving project, complete the paving project by the deadline, or complete the paving project as specified in these Orders, Respondent shall immediately pay Ohio EPA thirty-two thousand and five hundred dollars (\$32,500) of the civil penalty in accordance with the procedures in Order 4.

11. Should Respondent fail to spend at least \$150,000 to purchase a sweeper or purchase and implement use of the sweeper by the deadline, Respondent shall immediately pay Ohio EPA thirty-two thousand and five hundred dollars (\$32,500) of the civil penalty in accordance with the procedures in Order 4.

12. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 7, Respondent shall immediately pay to Ohio EPA \$32,780 of the civil penalty in accordance with the procedures in Order 4.

13. Within one year after the effective date of these Orders, Respondent shall submit a written request to Ohio EPA for modification of its permit to reflect the use of the mechanical sweeper on an ongoing basis at the St. Marys facility and to reflect the new paved roadways at the St. Marys facility.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has:

(1) complied with the requirements of Orders 1 through 3 up to the date of request for termination of these Orders, which shall be no less than one year after the effective date of the Orders;

(2) paid the penalties due pursuant to Orders 4 through 7 and 12;

(3) completed the paving project and submitted the progress report pursuant to Order 8 or paid the penalty amount waived pursuant to Order 10, and continued to maintain such paved roadways up to the date of request for termination of these Orders, which shall be not less than one year after the effective date of the Orders;

(4) purchased the mechanical sweeper for Respondent's Toledo facility, transferred the current Toledo facility's mechanical sweeper to the St. Marys facility, began use of both such sweepers at those facilities, and submitted a progress report pursuant to Order 9 or paid the penalty amount waived pursuant to Order 11, and complied with the paved roadway/parking area sweeping requirements in its permits for the St. Marys facility up to

the date of request for termination of these Orders, which shall be no less than one year after the effective date of these Orders; and

(5) submitted the written request to modify its permits to reflect the use of the mechanical sweeper on an ongoing basis at the St. Marys facility and to reflect the new paved roadways at the St. Marys facility pursuant to Order 13;

and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. Ohio EPA will consider and respond to Respondent's written certification and request to terminate these Orders promptly after Respondent's submittal. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03(D)(1) for a corporation, or a corporate officer who is in charge of a principal business function of Respondent.

#### **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  
Attn: Jeffrey Skebba

and to:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Thomas Kalman, Manager, Enforcement Section

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**

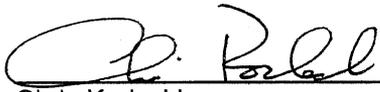
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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:**

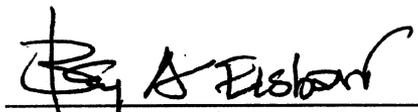
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Chris Korleski  
Director

8/13/10  
Date

**AGREED:**

**OmniSource Corporation**

  
\_\_\_\_\_  
Signature

6 Aug 2010  
Date

BENJAMIN A. EISBART  
Printed or Typed Name

VICE PRESIDENT  
Title