

**TENNESSEE AIR POLLUTION CONTROL BOARD**

**IN THE MATTER OF:**

**THE CARLSTAR GROUP LLC**

**RESPONDENT**

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**DIVISION OF AIR POLLUTION  
CONTROL**

**CASE NO.      APC17-0005**

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

Comes now, Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, and states that:

**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.**

The Carlstar Group LLC ("Respondent") is a foreign limited liability company authorized to do business in the State of Tennessee. Respondent's facility address is 520 JD Yarnell Industrial Parkway, Clinton, Tennessee 37716. Respondent's registered agent for service of process is C T Corporation System, 800 South Gay Street, Suite 2021, Knoxville, Tennessee 37067-2710.

**AUTHORITY**

**III.**

Pursuant to Tennessee Code Annotated ("Tenn. Code Ann.") § 68-201-116, the Technical Secretary may assess a civil penalty of up to TWENTY-FIVE THOUSAND DOLLARS (\$25,000) per day for each day of violation of the Tennessee Air Quality Act ("Act") or any rules

or regulations promulgated thereunder (“Division Rules”) against any person who violates said Act or Division Rules, and/or the Technical Secretary may issue an order for correction to the responsible person when provisions of the Act or Division Rules are violated. In addition, such person may also be liable for any damages to the State resulting therefrom.

**IV.**

Respondent is a “person” within the meaning of Tenn. Code Ann. § 68-201-102, and has violated the Division Rules as hereinafter stated.

**V.**

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

**VI.**

“Air contaminant source” means any and all sources of emission of air contaminants, whether privately or publicly owned or operated within the meaning of Tenn. Code Ann. § 68-201-102.

**VII.**

Respondent operates an “air contaminant source” within the meaning of Tenn. Code Ann. § 68-201-102.

**FACTS**

**VIII.**

On August 14, 2012, the Technical Secretary issued Major Source operating permit (“Title V”) number 562998, (facility 01-0114), to Respondent for the manufacturing of rubber tires. This Title V permit has been modified and amended several times since its issuance, but those permit changes have no effect on Respondent’s non-compliance with condition E8-1.

**IX.**

The Compliance Method for Condition E8-1 states in pertinent part:

For Rubber mixing baghouse Dalamatic DCE (Mixer #1), Carbon Black Baghouse Donaldson Torit (mixer #2) and Pigment Baghouse (pre-weigh) Donaldson Torit (mixer #2), permittee shall follow the submitted CAM Plan: . . .

The CAM Plan dated March 26, 2012, requires Respondent to continuously monitor each of the above baghouses with a triboelectric monitor, and archive five-minute averages on the computer network as a historical data record.

**X.**

Division personnel reviewed Respondent's semi-annual report ("SAR") for the period of April 1, 2016, through September 30, 2016, and the annual compliance certification ("ACC") for the period of October 1, 2015, through September 30, 2016. Respondent's SAR and ACC indicated that due to a change in data systems between June 24, 2016, and July 20, 2016, 11.3% of the historical data from Mixer #1 Baghouse, 11.2% of the historical data from Mixer #2 Baghouse, and 11.2% of the historical data from the Pre-Weigh Baghouse had not been stored.

**XI.**

On December 22, 2016, the Division issued a Notice of Violation to Respondent for the above violation. Respondent has indicated in a letter dated January 6, 2017, that the Environmental Manager will review the baghouse leak detection system data more frequently to detect and limit data losses. According to this letter, Respondent has created an e-mail system that will alert the EHS Manager, Maintenance Manager, Lead Maintenance, Shift Maintenance and IT personnel of any upset conditions where the system is not communicating data values, at which time a panel alarm will sound, which will have to be reset manually.

## VIOLATIONS

### **XII.**

By failing to comply with a condition of an operating permit, as discussed herein, Respondent has violated Tenn. Comp. R. & Regs. 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.

## RELIEF

### **XIII.**

WHEREFORE, PREMISES CONSIDERED, I, Michelle Walker Owenby, Technical Secretary, under the authority vested in me, hereby ORDER as follows:

1. Respondent is assessed a CIVIL PENALTY in the amount of **ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500)** for the violation of Division Rules, as discussed herein.
2. Respondent shall pay the assessed **CIVIL PENALTY** in full to the "Treasurer, State of Tennessee" as detailed in the Notice of Rights. The case number, **APC17-0005**, should be clearly shown on the check or money order to ensure that the payment is properly credited. Payment shall be made on or before the thirty-first (31st) day after receipt of this ORDER and ASSESSMENT.

The Technical Secretary does not expressly or implicitly waive her authority pursuant to any provision of the Act or Division Rules by issuing this ORDER AND ASSESSMENT OF CIVIL PENALTY. Failure to comply with any of the requirements of this ORDER could lead to further enforcement actions which may include additional civil penalties, assessment of damages and/or recovery of costs.

## NOTICE OF RIGHTS

Tenn. Code Ann. §§ 68-201-108(a) and 68-201-116(b), allow Respondent to appeal this ORDER AND ASSESSMENT OF CIVIL PENALTY ("Order and Assessment"). To do so, a

written petition setting forth the grounds (reasons) for requesting a hearing must be RECEIVED by the Technical Secretary within THIRTY (30) DAYS of the date Respondent received this Order and Assessment or this Order and Assessment becomes final (not subject to review).

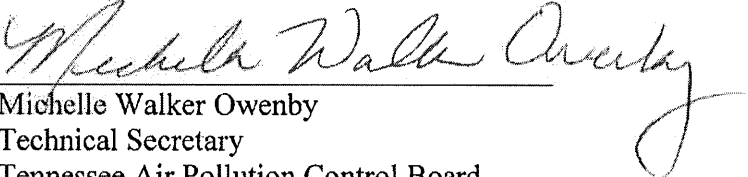
If an appeal is filed, an initial hearing of this appeal will be conducted by an Administrative Law Judge ("ALJ") as a contested case hearing pursuant to the provisions of Tenn. Code Ann. § 68-201-108(a), Tenn. Code Ann. § 4-5-301 *et seq.* (the Uniform Administrative Procedures Act), and Tenn. Comp. R. & Regs. 1360-04-01 *et seq.* (the Department of State's Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies). 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 (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. This includes the authority to modify (decrease or increase) the penalty within the statutory confines of Tenn. Code Ann. § 68-201-116 (up to \$25,000 per day per violation). Furthermore, 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.


Any petition for review (appeal) must be directed to the Technical Secretary, Tennessee Division of Air Pollution Control, c/o Jenny L. Howard, General Counsel, Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 2nd Floor, Nashville, Tennessee 37243. Payments of the civil penalty and/or damages shall be made payable to the "Treasurer, State of Tennessee" and sent to the Division of Fiscal Services - Consolidated Fees Section, Tennessee Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 10th Floor, Nashville, Tennessee 37243. Technical questions and other correspondence involving compliance issues should be sent to Attn: Tammy Gambill, Division of Air Pollution Control, William R.

Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 15th Floor, Nashville, Tennessee 37243 or via e-mail to [air.pollution.control@tn.gov](mailto:air.pollution.control@tn.gov). Attorneys should contact the undersigned counsel of record. **The case number, APC17-0005, 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 16<sup>th</sup> day of March, 2017.

  
Michelle Walker Owenby  
Technical Secretary  
Tennessee Air Pollution Control Board

Reviewed by:

  
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