

SCIOTO COUNTY
 OHIO
 FILED
IN THE COURT OF COMMON PLEAS
GENERAL DIVISION, SCIOTO COUNTY, OHIO
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Michael E. Whangam
 CLERK OF COURTS

**STATE OF OHIO, ex rel
Betty Montgomery**

Plaintiff

vs.

NEW BOSTON COKE CORP.

Defendant

*

Case No. 99-CIG-003

*

Judge Howard H. Harcha, III

*

JUDGMENT ENTRY

This matter comes before the Court on the State of Ohio's motion to find the defendant, New Boston Coke Corporation, in contempt for the failure to meet the deadlines for the clean-up of the plant site as set forth in this Court's order of December 20, 2002. The Court finds the parties were unable to conclude the evidence in the hearing and it is required that the hearing be continued so the parties can present the entire evidence to the Court.

In the interest of justice and the interest of cleaning the plant site, the Court sets the following orders until this matter can be rescheduled and the contempt hearing concluded.

- 1) All further deadlines will be exact and neither party shall have authority to extend or modify these deadlines without order of court.
- 2) All communications in the future shall be by writing and shall be served upon the opposing party by fax or e-mail with a hard copy immediately mailed.
- 3) Paragraph 45 of the December 20, 2002 order shall be modified to provide twenty (20) days for the State of Ohio to respond to any plan by New Boston Coke Corporation.
- 4) On the issue of the barrels and drums in the boiler house, it is **ORDERED** that the parties shall meet on the plant site and all drums and barrels listed in this inventory shall be transported off site by May 16, 2003. Documentation shall be provided to show transportation and acceptance of the materials by the approved landfill.

- 5) By May 23, 2003 New Boston Coke Corporation shall list all remaining product in the boiler house with a thorough analysis describing the waste characteristics.
- 6) By May 30, 2003 New Boston Coke Corporation shall develop a plan on how the remaining barrels and drums shall be disposed.
- 7) By May 30, 2003 Phillips shall test all aboveground and below-ground tanks and shall provide an analysis of said materials giving the waste characteristics of each to the State of Ohio by June 6, 2003.
- 8) On the issue of the weak ammonia liquor, it is **ORDERED** New Boston Coke Corporation shall report to this Court on the feasibility of shipping 450,000 gallons of water in the clarifier tank and the additional 60,000 gallons of water in the clean holding tanks to W.T.I by May 16, 2003.
- 9) It is further **ORDERED** that 14 days after the clarifier tank is emptied, New Boston Coke Corporation shall start the enviromax process on the remaining weak ammonia liquor.
- 10) It is **ORDERED** the waste water treatment facility at the New Boston Coke Corporation plant site shall not be sold without stipulations that it can be used to clean the remaining weak ammonia liquor and shall not be dismantled or removed from the plant site without this Court's prior approval.
- 11) It is **ORDERED** that by May 9, 2003 the New Boston Coke Corporation shall start the process of obtaining the enhanced enviromax system to clean the remaining weak ammonia liquor on the plant site.

On the issue of the waste piles and tanks, it is **ORDERED** New Boston Coke Corporation shall have permission to mix the coal tar and coal tar residue with the coke and coal products in the event they obtain buyers or recipients for said materials. It is **ORDERED** New Boston Coke Corporation shall submit names of all buyers and recipients of said products by June 6, 2003.

It is **ORDERED** New Boston Coke Corporation shall adopt a plan by June 20, 2003 to dispose of the remaining waste piles and contents of tanks. This provision of the order shall also include the materials found in the tar decanter hoppers.

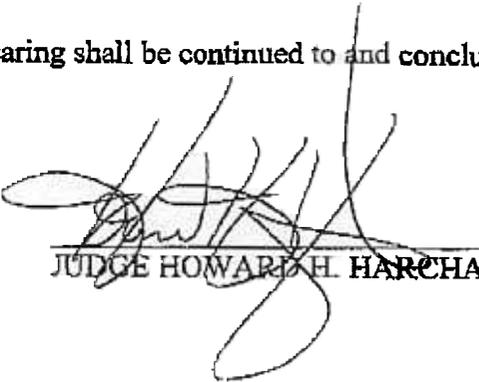
It is further **ORDERED** New Boston Coke Corporation shall submit a RI/FS work plan by June 30, 2003.

- 15) It is **ORDERED** the parties shall submit briefs on the issue of contempt outlining with specificity the potential sanctions that can be imposed in the event New Boston Coke Corporation is found to be in contempt of court.

These briefs shall specifically address the issue of what representative of New Boston Coke Corporation is responsible under the sanctioning power of this Court and further whether all sanctions are available to this Court as a result of the State of Ohio's motion.

- 16) It is **ORDERED** the contempt hearing shall be continued to and concluded on July 7, 2003 at 9:00 a.m.

IT IS SO ORDERED.



JUDGE HOWARD H. HARCHA, III

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