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MAYOR

SHELBY COUNTY HEALTH DEPARTMENT

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HEALTH OFFICER



Public Health
Prevent. Promote. Protect.

December 20, 2021

Mr. E. W. Atkinson, Jr., President
Planter's Gin Company, Inc.
171 West Mallory Avenue
Memphis, TN 38109-2222

RE: PUBLIC HEALTH ORDER – IMMEDIATE CESSATION OF OPERATIONS

Dear Mr. Atkinson:

PLEASE BE ADVISED, PURSUANT TO SHELBY COUNTY AIR CODE, SECTION 3-2, A PUBLIC HEALTH ORDER IS BEING ISSUED REQUIRING PLANTER'S GIN COMPANY, INC. TO IMMEDIATELY CEASE ALL OPERATIONS. PLANTER'S GIN COMPANY, INC. IS IN VIOLATION OF SHELBY COUNTY AIR CODE SECTION 3-5 FOR OPERATING AN AIR CONTAMINANT SOURCE WITHOUT A PERMIT.

The Shelby County Health Department, Pollution Control Section-Major Sources Branch (the "Department") discovered on May 4, 2021 that Planter's Gin Company, Inc.'s (the "Facility") air pollution operating permits expired on July 1, 2020, and the Facility has failed to submit a permit renewal application. Pursuant to Rule 1200-3-9-.02(2) of the Tennessee Department of Environment and Conservation Division of Air Pollution Control and Shelby County Air Code Section 3-5, unless specifically exempted by Rule 1200-3-9-.04, a facility is required to obtain a permit before operating an air contaminant source in Tennessee. (See attached Exhibits, Rules of Tennessee Department of Environment and Conservation Division of Air Pollution Control regarding operating permits and Shelby County Air Code, Sections 3-2 and 3-5). The previously-permitted operations at the Facility are not exempted by Rule 1200-3-9-.04; therefore, the Facility's operation of these sources without an operating permit is a violation of the Shelby County Air Code.

The Department has attempted to contact the Facility via telephone, fax, email and the United States Postal Service in order to resolve this issue. Telephone calls were made to attempt to assist with submitting the requested information for the permit renewal. Materials related to permit renewal were emailed and faxed to you on May 10 and May 12, 2021, respectively.

After several unsuccessful attempts to reach you via telephone, the Department issued a Notice of Inquiry, dated May 27, 2021, in reference to the expired permits. The Notice of Inquiry required that the Facility contact the Department within 15 days of receipt to schedule a Show Cause Hearing into this matter. According to the United States Postal Service's Certified Mail records, this correspondence was received by the Facility on June 3, 2021. The Department was not contacted following your receipt of the Notice of Inquiry.

On the morning of June 21, 2021, four Department representatives (Mr. Larry Smith-Acting Manager; Mr. Wasim Khokhar-Major Sources Supervisor; Mr. Jeff Grill-Major Sources Engineer; and Mr. Mark Landry-Major Sources Engineer) visited the Facility to provide any assistance necessary to facilitate the submission of the requested information. During the site visit, the Facility was unable to submit renewal applications for the expired permits, and sufficient reason for the Facility's lack of response was not provided. At that time, Mr. Larry Smith, Technical Manager of the Major Sources Branch verbally instructed you to cease operations until such time as the Facility's permits were renewed. The following day, June 22, 2021, the Department issued a written Cease and Desist Order to the Facility reiterating Mr. Smith's instructions that you should immediately cease unpermitted operations at the Facility.

Mission

To promote, protect and improve the health and environment of all Shelby County residents.

1826 Sycamore View Rd ♦ Memphis, TN 38134 ♦ 901 222-9000 ♦ www.shelbytnhealth.com

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The United States Postal Service's Certified Mail records indicate that this correspondence was received by the Facility on June 29, 2021.

On June 23, 2021, a Notice of Violation was issued to the Facility assessing penalties for the Facility's failure to timely submit operating permit renewal applications. The United States Postal Service's Certified Mail records indicate that this correspondence was received by the Facility on June 29, 2021.

On June 30, 2021, you visited the Shelby County Health Department in person to acquire copies of the forms required for the renewal of the Facility's operating permits. Physical copies of the subject forms were given to you in our lobby by a Department representative. A follow-up meeting was scheduled for July 13, 2021, and you failed to honor this appointment.

Pursuant to the Shelby County Air Code Section 3-2, evidence was obtained by the Department that the Facility continued to violate the Shelby County Air Code. On October 27, 2021, Department representatives began monitoring the Facility site for activities that indicate operations in violation of the Shelby County Air Code. Site observations were conducted on October 27th; November 5th, 15th, 16th and 23rd; December 1st, 7th and 15th. The Facility was operating unpermitted equipment during every one of these visits. Specifically, Department representatives observed malfunctioning control equipment, visible emissions and definite signs that the Facility is conducting operations in violation of the Shelby County Air Code by continuing to operate in spite of our Cease and Desist order of June 22.

Subsequent to the aforementioned efforts expended to assist the Facility in attaining compliance, and due to your lack of response to the Department's inquiries as well as your failure to heed the Cease and Desist order issued on June 22, 2021, the Shelby County Health Officer is issuing this Public Health Order that you cease all operations at Planter's Gin Company, Inc. facility, located at 171 West Mallory Avenue until such time as you have acquired renewed air pollution operating permits for the equipment at the Facility. **Failure to comply with this notice will result in the initiation of civil action in a court of competent jurisdiction against the Facility.**

For additional information, please call Mr. Wasim Khokhar at (901) 222-9587.

Sincerely,

Dr. Bruce Randolph
Health Officer
Shelby County Health Department

Attachments

cc: File Source # 00005
Enforcement Book
Branch Correspondence File
Shelby County Attorney's Office

EXHIBITS

Rules of Tennessee Department of Environment and Conservation Division of Air Pollution Control

1200-3-9-.02 OPERATING PERMITS

- (2) No person shall operate an air contaminant source in Tennessee without first obtaining an operating permit from the Technical Secretary except as specifically exempted in Rule 1200-3-9-.04. New sources operating with a valid construction permit may operate with the construction permit for the time period specified in Paragraph (1) above.

Shelby County Air Code Section 3-5 (adopted Chapter 1200-3-9 of the Tennessee Air Pollution Control Regulations).

Shelby County Air Code Section 3-2 Violations of Chapter-Notice; Citation; Injunctive Relief

- (a) Whenever evidence has been obtained or received establishing that a violation of this code has been committed, the Health Officer shall issue a notice to correct the violation or a citation to cease the violation. Such notice or citation shall briefly set forth the general nature of the violation and specify a reasonable time within which the violation shall be rectified or stopped. If the violation is not corrected within the time so specified, or the violation stopped, or reasonable steps taken to rectify the violation, the Health Officer shall have the power and authority to issue an order requiring the violator to cease or suspend operation of the facility causing the violation until the violation has been corrected, or initiate proceedings to prosecute the violator for violation of this code.
- (b) In the event any person fails to comply with a cease or suspend operation order, that is not subject to a stay pending administrative or judicial review, the Health Officer shall institute proceedings in a court of competent jurisdiction for injunctive relief to enforce the regulations or orders pursuant hereto.