

**COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

)
IN THE MATTER OF:)

Belcher Corporation, LLC)
558 Foundry Street)
South Easton, Massachusetts)

RE: **EASTON--BWP**
ADMINISTRATIVE CONSENT
ORDER WITH PENALTY AND
NOTICE OF NONCOMPLIANCE
ACOP-SE-04-7003

I. THE PARTIES

1. The Department of Environmental Protection (the "Department") is a duly constituted agency of the Commonwealth of Massachusetts. The Department maintains a primary office at One Winter Street, Boston, Massachusetts 02108, and a regional office at 20 Riverside Drive, Lakeville, Massachusetts 02347.
2. Belcher Corporation, LLC. is a Delaware limited liability company doing business in Massachusetts, with a place of business at 558 Foundry Street, South Easton, Massachusetts.

II. STATEMENT OF LAW AND REGULATION

1. The Department is charged with the implementation and enforcement of the **Massachusetts Air Pollution Control Regulations** as contained in 310 CMR 7.00. These regulations have been adopted under the authority of M.G.L. Chapter 111, Sections 142A-E and 142J and M.G.L. Chapter 21C, SS 4 and 6.
2. The Department is authorized to assess Civil Administrative Penalties by M.G.L. c.21A, §16 and regulations at 310 CMR 5.00.
3. Unless otherwise stated herein, the terms used in this Consent Order are defined pursuant to the regulations codified at 310 CMR 7.00 and 310 CMR 5.00.

III. THE DEPARTMENT'S STATEMENT OF FACTS

1. On March 24, 2004, Department personnel conducted an inspection in response to dust complaints from neighbors of the facility and observed an alleged condition of air pollution in the abutting residential neighborhood.

The condition was caused by particulate emissions alleged to be from the facility causing a condition of air pollution in violation of 310 CMR 7.09(1).

2. On April 27, 2004, a meeting occurred between Department personnel, a group of concerned citizens who abut the Belcher facility, Senator Brian Joyce, Representative Geraldine Creedon and Easton Public Officials to discuss and listen to the citizens concerns regarding facility operations. The citizens expressed concerns involving groundwater, odor, dust emissions and sound impacts associated operation of the foundry. Because of those concerns, Belcher Corporation, LLC agreed to conduct environmental sampling. Belcher subsequently obtained "Scopes of Work" from two third party consultants for independent sampling and analysis. The Scopes of Work have been presented to Town of Easton officials and neighborhood representatives.
3. On May 3, 2004, Department personnel conducted an inspection in response to dust complaints from neighbors of the facility and observed an alleged condition of air pollution in the abutting residential neighborhood. The condition was caused by particulate emissions alleged to be from the facility causing a condition of air pollution in violation of 310 CMR 7.09(1).

The condition was alleged to be caused by a cartridge failure in the Fueller baghouse the previous evening which caused the condition of air pollution in the residential neighborhood in violation of 310 CMR 7.09(1). Belcher Corporation, LLC had reported the cartridge failure to the Department by telephone to a Department employee voice mail prior too the Department conducting the site inspection.

4. On May 6, 2004, a meeting was held between representatives of the Department of Environmental Protection and Belcher Corporation LLC, at the Southeast Regional office to further discuss resident's concerns associated with odors, sound and dust emissions. At the meeting, the facility's hours of operation were also discussed along with the facility's tracking of hours of operation. As part of the Department's review of Belcher Corporation, LLC operations, the Department required the facility in a letter dated May 19, 2004, to submit to the Department the actual hours of operation of the Electric Induction Furnaces, Disa Line and Hunter Auto Pour Station since October 1, 2003, until present.
5. On June 16, 2004, Department personnel conducted an inspection in response to dust complaints from neighbors of the facility and observed an alleged condition of air pollution in the abutting residential neighborhood. The condition was caused by particulate emissions from the facility alleged to be causing a condition of air pollution in violation of 310 CMR 7.09(1).
6. On June 22, 2004, the Department received "copies" of "Scopes of Work" from two consultants detailing the sampling and analysis audit they would propose at the facility and surrounding residences to determine the impact of the noise, particulate emissions and odor impacting the residents of the neighborhood.

7. On September 1, 2004, Department personnel conducted an inspection in response to odor complaints from neighbors and detected a strong, distinct foundry odor offsite of the property on the downwind side of the facility. The Department determined the odor emissions to be of a level and duration to be causing an alleged condition of air pollution in violation of 310 CMR 7.09(1).
8. Review of the hourly operation records submitted by Belcher Corp. LLC to the Department has revealed an exceedance of the facility's 400 hour monthly and 4,000 hour twelve month rolling average operational limits for the American Air Filter Baghouse (Permit #4P96092) and the Pangborn Baghouse (Permit #4P95096) in violation of 310 CMR 7.02. These baghouses collect emissions from the following operations: Disa Line, Main Vibrating Conveyer, Hunter Auto Pour Station and Electric Induction Furnaces (Melt Deck).

IV. DISPOSITION

1. As a result of discussions between the Department and Belcher Corporation, LLC and without adjudication of any fact or law set forth above, the Parties have agreed to this Consent Order rather than expending the time and resources necessary to adjudicate this matter. No statement in this Consent Order shall be construed as an admission of any Fact or violation of law, and no such statement shall be admissible in any administrative or judicial proceeding for such purpose.
2. This Consent Order is issued by the Department pursuant to its authority under Massachusetts General Laws, Chapter 21A and Chapter 111 as applicable.
3. Belcher Corporation, LLC assents to the authority of the Department to issue this Consent Order and waives its rights to further administrative or judicial review of this Consent Order. Belcher Corporation, LLC reserves all their rights to challenge any requirements imposed by the Department beyond those set forth in this Consent Order and any imposition of stipulated penalties under this Consent Order.
4. This Consent Order is not an admission of any liability or a waiver of defenses that Belcher Corporation, LLC might raise in any administrative or judicial proceeding, whether to enforce this Consent Order or otherwise.
5. Nothing in this Consent Order shall be construed as, or operated as, barring, diminishing, adjudicating, or in any way affecting any legal or equitable right of the Department to issue any future Order with respect to the subject matter covered by this Consent Order, or in any way affecting any other claim, action, or demand which the Department may have with respect thereto, or any defense, action or claim which Belcher Corporation LLC may have.

6. This Consent Order is also a Notice of Noncompliance, issued pursuant to M.G.L. Chapter 21A, Section 16 and the regulations promulgated thereunder at 310 CMR 5.00.
7. The Department hereby determines, and Belcher Corporation, LLC, thereby agrees, that the deadlines set forth above in this Consent Order constitute reasonable times to perform the acts expressly agreed to in this Consent Order and that the activities required pursuant to this Consent Order otherwise meet requirements of 310 CMR 7.00.
8. The activities required pursuant to this Consent Order are subject to approval by the Department where so stated and shall comply with all other applicable federal, state and local laws.
9. This Consent Order shall apply to and be binding upon Belcher Corporation, LLC and their respective successors, heirs and assigns. No change in property ownership will alter in any way the responsibility of Belcher Corporation, LLC under this Consent Order. A signed copy of this Consent Order shall be provided to any successor, heir or assign of Belcher Corporation, LLC.
10. Any extensions to the performance dates in this Administrative Consent Order must be approved by the Department, in writing.
11. Belcher Corporation, LLC shall not violate this Consent Order and shall not allow its successors, heirs, agents, or contractors to violate this Consent Order.

V. ORDER

Air Pollution

1. **Immediately upon the effective date of this Order** Belcher shall undertake measures designed to reduce so-called “yard noise” from evening operations.
2. **Within thirty (30) days of the effective date** of this Order, Belcher Corporation LLC shall submit a report that identifies the sources of so-called “yard noise” from evening operations, such as, fork lift, loud metal scrapping and banging noises, etc. This reports shall include a description of the measures taken to reduce yard noise in compliance with the Department’s Noise Regulation at 310 CMR 7.10.
3. **Within one (1) day of the effective date** of this Order, Belcher Corporation LLC shall adhere to the following operation schedule in-lieu of the hourly operating limits in Department Permits 4P96092 and 4P95096 until such time as the Comprehensive Plan Application (CPA) required below has been approved by the Department.

- a. limit the operation of the Disa Line, Main Vibrating Conveyer, Hunter Auto Pour Station, and Electric Induction Furnaces (Melt Deck) and the associated baghouses to 16 hours per day and shall not commence until 6:00 a.m. and shall terminate daily by 10:00 p.m.
 - b. In the event of unforeseen mechanical failures, Belcher Corp. LLC may continue daily operation until 2:00 a.m. provided the 16-hour per day limit herein is not exceeded. Belcher Corp. LLC shall maintain records of any such mechanical failures which occur between 6:00 a.m. and 10:00 p.m. and resulting operations between 10:00 p.m. and 2:00 a.m. for Department review.
 - c. The Disa Line, Main Vibrating Conveyer, Hunter Auto Pour Station, and Electric Induction Furnaces (Melt Deck) and associated baghouses shall be not operated on either Saturday and/or Sunday.
4. **Within seven (7) days of the** final selection of a consultant to perform sampling as described in Section III Statement of Facts Paragraph No. 2 above, Belcher Corporation LLC shall submit a Scope of Work for environmental sampling to the Department for approval prior to the commencement of the sampling.
 5. **Within twenty-one (21) days** of the effective date of this Order, Belcher Corporation LLC shall submit a copy of an updated air pollution control equipment preventive maintenance program, that includes at a minimum, provisions for daily, weekly and monthly inspection and maintenance for all Air Pollution Control equipment throughout the facility. Records of the preventive maintenance program implementation shall be maintained at the facility and available for Department review.
 6. **By February 15, 2005**, Belcher Corporation, LLC shall have submitted to the Department an Administratively Complete Comprehensive Plan Application (CPA) in accordance with 310 CMR 7.02 "Air Pollution Control Regulations". The application shall include a Best Available Control Technology "BACT" determination relative to controlling odors, dust, noise and volatile organic compounds being emitted from the facility. The "BACT" determination shall include, at a minimum, an evaluation of "Advanced Oxidation Technology", Thermal Oxidation, Negative Pressure Air Systems and Activated Carbon System.
 7. Belcher Corporation LLC shall remedy any technical application deficiency(ies) or respond to requests for information (RFIS) relative to the CPA referenced in the preceding paragraph, **within thirty (30) days** of the date of receipt of any such technical deficiency and/of request for information or such longer period as may be reasonably required upon approval.
 8. Belcher Corporation LLC shall install and operate the "air pollution control technologies" proposed in the Comprehensive Plan Application **within ninety (90) days** of receipt of the

Department's approval of the required plan application or such longer period as may be reasonably required upon approval.

VI. PENALTIES

1. In full resolution of the alleged violations and Facts set forth in this Consent Order, Belcher Corporation, LLC agrees to perform a Supplemental Environmental Project ("SEP") having a minimum total value of \$ 25,000(as more described in Section VII of this Consent Order) and Belcher Corporation LLC shall pay an Administrative Penalty to the Commonwealth, pursuant to Chapter 21A, Section 16, **a total of fifteen thousand dollars (\$15,000.00)** for the violations set forth in Section III above. Payment must be made by certified check, cashier's check, or money order, payable to the Commonwealth of Massachusetts. No other form of payment shall be accepted.
2. The name "Belcher Corporation, LLC" the document file number **ACOP-SE-04-7003**, and your **Federal Employer identification Number (FEIN)**, shall be printed clearly on the face of the certified check, cashier's check, or money order. The payment shall be sent, within one hundred and eighty (**180**) days of the Effective Date of this Consent Order to:

**Commonwealth Master Lockbox
P.O. Box 3982
Boston, Massachusetts 02241-3982**

3. Should Belcher Corporation, LLC fail to perform the SEP pursuant to Section VII of this Consent Order, within the timeframes Consent Order, Belcher Corporation, LLC shall pay \$25,000.00 as a Civil Administrative Penalty in accordance with the procedures set forth in this Section within one hundred and eighty days of the effective date of this Consent Order.
4. **STIPULATED PENALTIES:** Belcher Corporation, LLC shall pay to the Department stipulated penalties in the amount of \$1,000.00 per day for each day of each violation which extends beyond the compliance deadlines specified herein. Said stipulated penalties shall be paid, without demand from the Department, in accordance with the payment method specified in section VI herein, above.

VII. SUPPLEMENTAL ENVIRONMENTAL PROJECT

1. In addition to the payment of the Administrative Penalty in Section VI of this Consent Order, Belcher Corporation LLC shall perform the following SEP in accordance with the following procedures:

a. Belcher Corporation LLC shall perform any environmental sampling approved by the Department in accordance with Section V Order, Paragraph 4 within **one hundred and sixty (160) days** upon the effective date of this Consent Order.

b. **Within ten (10) days** of Belcher Corporation LLC receipt of a final environmental sampling report approved by the Department, Belcher Corporation LLC shall have submitted a final report to the Department for Department review.

c. The total expenditure by Belcher Corporation LLC for environmental sampling is estimated to be seventy-five thousand dollars (\$75,000.00) which shall include the twenty-five thousand dollars (\$25,000.00) as the Supplemental Environmental Project listed in Section VI above. Should the total sampling expenditure be less than seventy-five thousand dollars (\$75,000.00), the remainder shall be immediately due and owing in the form of a Civil Administrative Penalty unless otherwise approved by the Department for an expanded Supplemental Environmental Project.

ADDITIONAL PROVISIONS

1. The terms and conditions of this Consent Order shall take effect on the Effective Date, which is the date the Consent Order is signed by the Department.
2. Belcher Corporation, LLC represents that Richard Porter is authorized by Belcher Corporation, LLC to sign this Consent Order on behalf of Belcher Corporation, LLC and thereby bind Belcher Corporation, LLC to the terms of this Consent Order.
3. The Department represents that the Regional Director has the authority to bind the Department to sign this Consent Order on behalf of the Department with respect to this Consent Order and all applicable statutes and regulations.
4. Failure on the part of the Department to complain of action or non-action on the part of Belcher Corporation, LLC shall not constitute a waiver by the Department of any of its rights hereunder. Furthermore, no waiver by the Department of any provision herein shall be construed as a waiver of any other provision herein.
5. If any term or provision of this Consent Order, or the application thereof, to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Consent Order, and the application thereof, shall not be affected thereby, and each remaining term and provision shall be valid and enforceable to the fullest extent permitted by law.
6. Each document submission required from Belcher Corporation, LLC by this Consent Order shall be submitted to:

Steven Risi

Department of Environmental Protection
Southeast Regional Office
20 Riverside Drive
Lakeville, MA 02347

Belcher Corporation, LLC

FEIN #: 010756583

DATE: 9/21/04

BY:

Richard Porter
President

Department of Environmental Protection

DATE: 9/21/04

BY:

This final document copy is being provided to you electronically by the
Department of Environmental Protection. A signed copy of this document
is on file at the DEP office listed on the letterhead.

Gary S. Moran
Regional Director