

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

COUNTY OF ALLEGHENY,

Plaintiff,

v.

SHENANGO INCORPORATED,

Defendant.

CIVIL DIVISION

No. GD-14- 6299

**JOINT MOTION TO ENTER CONSENT
ORDER AND AGREEMENT**

Counsel of Record for Plaintiff:

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COUNTY OF ALLEGHENY,

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JOINT MOTION TO ENTER CONSENT ORDER AND AGREEMENT

The Plaintiff, the County of Allegheny, acting by and through the Allegheny County Health Department (hereinafter “Department” or “ACHD”), and the Defendant, Shenango Incorporated (“Shenango”), by and through their undersigned counsel, hereby file the following Joint Motion to Enter Consent Order and Agreement (“COA”), and request that the Court enter the mutually negotiated COA attached hereto:

1. The complaint filed in this case presents a significant number of complex technical and legal issues regarding air emissions from the coke-making facility operated by Shenango on Neville Island, Pennsylvania (the “Facility”).
2. The ACHD and Shenango have engaged in extensive discussions regarding these issues and have negotiated a COA that resolves all such issues.
3. Pursuant to the COA agreed to by the parties, Shenango will take the following actions: complete a number of physical changes to the Facility to further reduce air emissions; pay a civil penalty of \$300,000; expend an additional \$300,000 to implement a supplemental environmental project to further reduce emissions at the Facility; and to increase the frequency of monitoring emissions during the pushing phase of the coke-making process.

4. The Parties recognize and agree that the COA has been negotiated in good faith, will avoid litigation between the Parties, and is fair, reasonable and in the public interest.

WHEREFORE, the Parties hereby request the Court to approve and enter the COA as a final judgment in this matter.

Dated: April 7, 2014



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Respectfully submitted,



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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

COUNTY OF ALLEGHENY, a political)	
subdivision of the Commonwealth of)	
Pennsylvania,)	CIVIL DIVISION
)	Case No.: <u>GD-14-6299</u>
Plaintiff,)	
)	
vs.)	
)	
SHENANGO INCORPORATED)	
)	
Defendant.)	
)	
)	

CONSENT ORDER AND AGREEMENT

WHEREAS, Plaintiff, the County of Allegheny, acting by and through the Allegheny County Health Department (“ACHD”), has filed a complaint concurrently with this Consent Order and Agreement, alleging that Defendant, Shenango Incorporated (hereinafter “Shenango”) violated certain provisions of the Clean Air Act (hereinafter “CAA”), 42 U.S.C. §§ 7401 *et seq.* and the ACHD’s Rules and Regulations, Article XXI, Air Pollution Control (Allegheny County Ordinance No. 16782) (hereinafter “Article XXI”).

RECITALS

WHEREAS, the ACHD has found and determined the following:

1. The Director of the ACHD has been delegated authority pursuant to the CAA, and the Pennsylvania Air Pollution Control Act, 35 P.S. §§ 4001-4014, and the ACHD is a local health agency organized under the Local Health Administration Law, 19 P.S. §§ 12001-12028, whose powers and duties include the enforcement of laws relating to public health within Allegheny County, including, but not limited to, Article XXI.
2. Shenango is a Pennsylvania corporation that maintains a mailing address within the Commonwealth of Pennsylvania at 200 Neville Road, Pittsburgh, PA 15225-1690.
3. Shenango’s Neville Island Coke Plant (hereinafter “Coke Plant” or “Facility”) located in Neville Township is a coke manufacturing and by-products recovery plant that

performs destructive distillation of coal to produce metallurgical coke and by-products such as tar, light oil, sodium phenolate, and ammonium sulfate. Coke oven gas (hereinafter “COG”) fuel, which is used to underfire the coke battery and to fuel the boilers, is also produced. The Coke Plant includes one coke battery made up of 56 individual ovens that has a nominal rated capacity of 1,500 tons coal/day (hereinafter the “Battery S-1”), a coke by-products recovery plant, and environmental control units, including a wastewater treatment plant and a COG Desulfurization Plant.

4. On or about November 6, 2012, a Consent Decree executed by the United States of America, the Pennsylvania Department of Environmental Protection, the County of Allegheny and Shenango was entered in the United States District Court for the Western District of Pennsylvania (hereinafter “2012 Consent Decree”).

5. The 2012 Consent Decree addressed, *inter alia*, compliance requirements covering the Facility’s combustion stack.

6. On or about June 19, 2012, the Allegheny County Health Department and Shenango entered into a Consent Order and Agreement (hereinafter “2012 COA”).

7. The 2012 COA addressed, *inter alia*, compliance requirements covering soaking and sulfur compound emissions.

8. On August 20, 2013, the ACHD issued to Shenango Notice of Violation No. 130706Rev1 (the original notice of violation, issued on July 31, 2013, was withdrawn due to an error and was corrected and reissued on August 20, 2013) (hereinafter “August 20th NOV”). The August 20th NOV alleged that, over the course of the first quarter of 2013, Shenango violated the following provisions of Article XXI:

- a. Excess visible charging emissions at Battery S-1 in violation of Section 2105.21.a.1;
- b. Excess visible emissions from the door areas of Battery S-1 in violation of Section 2105.21.b.1;
- c. Excess visible emissions from the offtake piping of Battery S-1 in violation of Section 2105.21.d.1; and
- d. Excess visible pushing emissions at Battery S-1 in violation of Section 2105.21.e.4.

9. The August 20th NOV also offered to settle the violations alleged therein through a civil penalty payment of \$16,250.00. Shenango accepted that settlement offer and paid the civil penalty of \$16,250.00 on or about September 13, 2013.

10. On September 25, 2013, the ACHD issued to Shenango Notice of Violation No. 130903 (hereinafter "September 25th NOV"). The September 25th NOV alleged that, over the course of the second quarter of 2013, Shenango violated the following provisions of Article XXI:

- a. Excess visible charging emissions at Battery S-1 in violation of Section 2105.21.a.1;
- b. Excess visible emissions from the door areas of Battery S-1 in violation of Section 2105.21.b.1;
- c. Excess visible emissions from the offtake piping of Battery S-1 in violation of Section 2105.21.d.1;
- d. Excess visible pushing emissions at Battery S-1 in violation of Section 2105.21.e.4;
- e. Venting or flaring raw COG in violation of Section 2105.21.h.

11. The September 25th NOV also offered to settle the violations alleged therein through a civil penalty payment of \$25,475.00. Shenango accepted that settlement offer and paid the civil penalty of \$25,475.00 on or about January 23, 2014.

12. On December 5, 2013, the ACHD issued to Shenango Notice of Violation No. 131201 (hereinafter "December 5th NOV"). The December 5th NOV alleged that, over the course of the third quarter of 2013, Shenango violated the following provisions of Article XXI:

- a. Excess visible charging emissions at Battery S-1 in violation of Section 2105.21.a.1;
- b. Excess visible emissions from the door areas of Battery S-1 in violation of Section 2105.21.b.1;
- c. Excess visible emissions from the door areas of Battery S-1 in violation of Section 2105.21.b.4 (40% opacity standard);
- d. Excess visible emissions from the offtake piping of Battery S-1 in violation of Section 2105.21.d.1;
- e. Excess visible soaking emissions at Battery S-1 in violation of Section 2105.21.i;

f. Excess visible pushing emissions at Battery S-1 in violation of Section 2105.21.e.4; and

g. Venting or flaring raw COG in violation of Section 2105.21.h.

13. The December 5th NOV also offered to settle the violations alleged therein through a civil penalty payment of \$24,725.00. Shenango accepted that settlement offer and paid the civil penalty of \$24,725.00 on or about January 17, 2014.

14. The Department alleges that between the date of lodging of the 2012 Consent Decree, July 26, 2012, and December 31, 2012, Shenango violated the following provisions of Article XXI:

a. Excess visible charging emissions at Battery S-1 in violation of Section 2105.21.a.1;

b. Excess visible emissions from the door areas of Battery S-1 in violation of Section 2105.21.b;

c. Excess visible emissions from the charging ports on Battery S-1 in violation of Article XXI Section 2105.21.c;

d. Excess visible emissions from the offtake piping on Battery S-1 in violation of Article XXI Section 2105.21.d;

e. Excess visible pushing emissions at Battery S-1 in violation of Section 2105.21.e.4; and

f. Venting or flaring raw COG in violation of Section 2105.21.h.

15. The ACHD alleges that, over the course of the fourth quarter of 2013, Shenango violated the following provisions of Article XXI:

a. Excess visible charging emissions at Battery S-1 in violation of Section 2105.21.a.1;

b. Excess visible emissions from the door areas of Battery S-1 in violation of Section 2105.21.b.1;

c. Excess visible emissions from the door areas of Battery S-1 in violation of Section 2105.21.b.4 (40% opacity standard);

d. Excess visible emissions from the offtake piping of Battery S-1 in violation of Section 2105.21.d;

e. Excess visible soaking emissions at Battery S-1 in violation of Section 2105.21.i;

f. Excess visible pushing emissions at Battery S-1 in violation of Section 2105.21.e.4; and

g. Venting or flaring raw COG in violation of Section 2105.21.h.

16. The ACHD alleges that from January 1, 2014 through the March 13, 2014, Shenango violated the following provisions of Article XXI:

a. Excess visible emissions from the door areas of Battery S-1 in violation of Section 2105.21.b;

b. Excess visible pushing emissions at Battery S-1 in violation of Section 2105.21.e.4; and

c. Excess visible soaking emissions at Battery S-1 in violation of Section 2105.21.i.

17. On February 6, 2014, the Group Against Smog and Pollution, Inc. (hereinafter "GASP"), a Pittsburgh-based nonprofit corporation, sent to Shenango a letter providing notice that GASP intends to sue Shenango for air quality violations at Battery S-1 (hereinafter "GASP Notice Letter"). The GASP Notice Letter was sent pursuant to the citizen suit provisions of the Clean Air Act and Article XXI, found at 42 U.S.C. § 7604(b) and Article XXI § 2109.11.d, respectively, and asserted the following violations:

a. Excess visible charging emissions at Battery S-1 in violation of Section 2105.21.a.1;

b. Excess visible emissions from the door areas of Battery S-1 in violation of Section 2105.21.b.1;

c. Excess visible emissions from the door areas of Battery S-1 in violation of Section 2105.21.b.4 (40% opacity standard);

d. Excess visible pushing emissions at Battery S-1 in violation of Section 2105.21.e.4;

e. Excess visible emissions from the Battery S-1 combustion stack in violation of Article XXI Section 2105.21.f.3 (20% standard);

f. Excess visible emissions from the Battery S-1 combustion stack in violation of Article XXI Section 2105.21.f.4 (60% standard); and

g. Excess emissions of the hydrogen sulfide content of flared, mixed or combusted coke oven gas in violation of Article XXI Section 2105.21.h.3.

18. The following steps have been taken by Shenango to enhance the control of charging, soaking and coke oven door emissions:

a. Monthly inspections of flue walls are being conducted and maintenance work is being performed and prioritized based on these inspections.

b. Charging work practices have been modified to require pre-leveling coal charge height measurements on Nos. 1 and 3 charge holes in order to maintain desired coal heights and spacing.

c. Jamb cleaning equipment design has been modified to improve efficiency.

d. Door inspection procedures have been revised to include a door change-out program of 1 to 2 doors/week.

19. Compliance with requirements pertaining to the emission of sulfur compounds from the Facility are covered by the 2012 COA that remains in full force and effect.

20. Compliance with requirements pertaining to emissions from the Facility's battery combustion stack are covered by the 2012 Consent Decree that remains in full force and effect.

WHEREAS, after a full and complete negotiation of all matters set forth in this Agreement and upon mutual exchange of covenants contained herein, the Parties agree that this Agreement is in the best interest of the Parties and the public;

NOW, THEREFORE, without any final determination or admission of fact or law, intending to be legally bound hereby, and with the consent of the Parties, it is hereby **ADJUDGED, ORDERED** and **DECREED** as follows:

I. APPLICABILITY

A. The provisions of this Agreement shall apply to, be binding upon, and inure to the benefit of the ACHD and Shenango and upon their respective officers, directors, agents, contractors, employees, servants, successors, and assigns.

B. The duties and obligations under this Agreement shall not be modified, diminished, terminated, or otherwise altered by the transfer of any legal or equitable interest in the Coke Plant or any part thereof.

C. If Shenango proposes to transfer the Coke Plant to an unaffiliated entity, Shenango shall provide written notice to the ACHD of the proposed transfer at least thirty (30) days prior to the transfer. Shenango shall also provide a copy of this Agreement to any person or entity to which Shenango intends to make any such transfer at least thirty (30) days prior thereto except that this provision does not apply to a transfer to a lender or lenders taking a security interest in the Coke Plant.

D. The undersigned representative of Shenango certifies that he or she is fully authorized to execute this Agreement on behalf of Shenango, and to legally bind Shenango to this Agreement.

E. Nothing in this Agreement is intended to limit or alter the ACHD's or Shenango's obligations or rights under Article XXI with regard to the transfer of installation or operating permits.

F. This Agreement is neither a permit nor a modification of any existing permit and shall not be interpreted as such. This Agreement is not to be construed as creating rights or obligations in third parties. This Agreement constitutes a settlement of material factual and legal issues and shall not constitute an admission or adjudication of any issue of fact or law relating to the claims of the County of Allegheny or defenses of Shenango.

II. GENERAL TERMS

A. This Agreement addresses and is intended to address the violations alleged by Allegheny County, through the ACHD, in the complaint filed concurrently with this Agreement.

B. Nothing contained herein is intended to limit the authority of the ACHD with respect to violations that may occur after the date of this Agreement or to limit the authority of the ACHD to seek further enforcement of this Agreement in the event that Shenango fails to successfully comply with its terms and conditions.

C. The provisions of this Agreement are severable. If any provision or part thereof is declared invalid or unenforceable, or is set aside for any other reason, the remainder of the Agreement shall remain in full effect.

D. This Agreement shall constitute the entire integrated Agreement of the Parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.

E. No changes, additions, modifications or amendments to this Agreement shall be effective unless they are set forth in writing and signed by the Parties hereto.

G. A title used at the beginning of any paragraph of this Agreement shall not be considered to control but may be used to aid in the construction of the paragraph.

H. This Agreement shall become effective upon entry in the Court of Common Pleas of Allegheny County.

I. In the event that Shenango fails to comply with any provision of this Agreement, and the ACHD believes that such failure has created an emergency which may lead to immediate and irreparable harm to the environment or community, the ACHD may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the ACHD, including an action to enforce this Agreement, or any other enforcement option available to it under the CAA, the Pennsylvania Air Pollution Control Act, the Local Health Administration Law, the Rules and Regulations of the ACHD, or other applicable statutes or regulations. Shenango does not waive any defenses it may have to such action by the ACHD.

J. The ACHD reserves the right to attempt to require additional measures to achieve compliance with this Agreement. Shenango reserves the right to challenge any action that the ACHD may take to require such additional compliance measures.

K. Shenango shall be liable for any violations of this Agreement knowingly caused by, contributed to, or allowed by its officers, agents, or employees.

L. All correspondence with the ACHD concerning this Agreement shall be addressed to:

Enforcement Chief
Allegheny County Health Department
Air Quality Program
301 39th Street, Bldg. No. 7
Pittsburgh, PA 15201

M. All correspondence with Shenango concerning this Agreement shall be addressed to:

Shenango Incorporated
414 South Main Street, Suite 600
Ann Arbor, MI 48104
Attn: Vice President, Steel

Copy to:

Shenango Incorporated
414 South Main Street, Suite 600
Ann Arbor, MI 48104
Attn: Legal Department

N. In the event of a change in a contact person's name, title, or address, the party with such a personnel change shall notify the other party within thirty (30) Working Days.

O. Service of any notice or legal process for any purpose under this Agreement, including its enforcement, may be made by mailing an original or true and correct copy by First Class mail to the above contacts and addresses.

III. DEFINITIONS

A. Unless otherwise explicitly defined herein, any term used in this Agreement that is defined in the CAA, the regulations promulgated thereunder, or Article XXI shall have the meaning given it therein.

B. For purposes of this Agreement, the following words and phrases shall have the meaning stated:

1. "ACHD" or "Department" shall have the meaning set forth in the preamble.

2. "Agreement" shall have mean this Consent Order and Agreement and all appendices hereto.
3. "CAA" or "the Act" shall have the meaning set forth in the Recitals.
4. "Charging" or "Charging Emissions" shall have the meaning set forth in Article XXI § 2101.20.
5. "Coke Plant" or "Facility" shall have the meaning set forth in the Recitals.
6. "Day" shall mean a calendar day unless expressly stated to be a Working Day.
7. "Effective Date" shall be the date on which this Agreement is entered by order of the Court of Common Pleas of Allegheny County.
8. "Notify" or "Submit" or other terms signifying an obligation to transmit or communicate documents or information shall mean, for the purpose of meeting any deadline for written communication set forth in this Agreement, the date that the communication is postmarked and sent by certified mail, return receipt requested or by a reputable delivery service that maintains a delivery tracking system. In the event the communication is sent by facsimile or e-mail, as mutually agreed upon by the Parties, the effective date is the date of receipt. Oral communications, where required or permitted by mutual agreement of the Parties, must be confirmed in writing within seven (7) days of the oral communication.
9. "Push" or "Pushing" shall have the meaning set forth in the definition of "Pushing" as found in Article XXI § 2101.20.
10. "Soaking" shall have the meaning set forth in the definition of "soaking emission from a standpipe cap" as found in Article XXI § 2101.20.
11. "Working Day" shall mean a day other than a Saturday, a Sunday, or a holiday recognized by the United States or Allegheny County. In computing any period of time under this Agreement, where the last Day would fall on a Saturday, a Sunday, or a holiday recognized by the United States or Allegheny County, the period shall run until the close of business of the next Working Day.

IV. COMPLIANCE REQUIREMENTS

A. Shenango shall complete repairs to areas of the pushing emission control shed by June 30, 2014. The repairs will consist of replacing the steel sheeting of the shed that lies on the horizontal plane below the coke side collecting main.

B. On or before May 31, 2014, Shenango shall develop and submit a Baghouse Maintenance Plan to the ACHD for approval.

C. Shenango shall implement the Baghouse Maintenance Plan upon receipt of written approval by the ACHD.

D. On or before May 15, 2014, Shenango shall install a shed extension to minimize the opening between the quench tower and the main shed.

E. If Shenango determines that the shed extension is impractical or if a refabrication is required that will extend beyond May 15, 2014, for any reason, Shenango shall provide a written description and documentation to the ACHD by June 30, 2014, explaining why this shed extension was not feasible or why it needs extensive refabrications. Stipulated penalties pursuant to Paragraph VI.C shall not apply if Shenango completes the refabrication by May 15, 2014 or provides notice to the ACHD as herein set forth.

F. Beginning on the Monday following the Effective Date of this Agreement, Shenango and/or its contractor shall observe and record the opacity of fugitive emissions from a minimum of four (4) consecutive Pushes during each operating day and fifty-six (56) Pushes during each week which shall run from Monday through Sunday, using U.S. EPA Method 9, 40 CFR 63 Subpart CCCCC (hereinafter "Method 9"), provided, however, that solely for purposes of determining the rolling average Pushing compliance percentage pursuant to Paragraph IV.N, below, compliance shall be determined as set forth in Paragraph IV.N.1.

G. The ACHD may also observe and record the opacity of fugitive Pushing emissions. The ACHD will typically include groups of four (4) consecutive Pushes, however, it may observe and record groups of non-consecutive Pushes or consecutive Pushes containing less than four (4) Pushes provided it records the reason(s) for not following its standard inspection procedure.

H. The ACHD readings shall be taken in accordance with Chapter 109 of the Allegheny County Source Testing Manual, entitled “Determination of Emissions from Coke Ovens” (hereinafter “Chapter 109”).

I. Beginning on the Monday following the Effective Date of this Agreement, Shenango shall maintain records of the coking time for each oven Pushed for each day of operation.

J. For purposes of this Agreement, the calculation of coking time shall commence upon completion of the Charging process and shall end upon the initiation of the Pushing process.

K. For the purposes of this Agreement, the Designated Minimum Daily Coking Time shall apply to Pushes occurring from 7:00 A.M. – 7:00 A.M. the following day.

L. On and after the first Monday following the Effective Date of this Agreement, Shenango shall maintain the daily minimum coking time at or above the Designated Minimum Daily Coking Time.

M. Beginning on the first Monday following the effective date of this Agreement and continuing through Wednesday of that week (hereinafter “Initial 3-Day Cycle”), the Designated Minimum Daily Coking Time shall be 18:00 hours. Thereafter, the Designated Minimum Daily Coking Time will be adjusted on a daily basis as set forth below.

N. Within two (2) hours of the final submission of Pushing inspections taken on the third day of the Initial 3-day Cycle, and continuing on a daily basis thereafter, Shenango shall calculate a 3-day rolling average compliance percentage for Pushing observations. The rolling average Pushing compliance percentage shall be calculated using the total number of compliant Pushes observed and recorded by Shenango and the ACHD, according to Paragraphs IV.F, IV.G, and IV.H, above, during the prior 3-day period as the numerator and the total number of Pushing observations conducted and recorded in accordance Paragraphs IV.F, IV.G, and IV.H by Shenango and the ACHD for that same 3-day period as the denominator.

1. For purposes of determining compliance for readings taken by Shenango, or its contractor, each individual 15 second reading shall be compared to the opacity standards of Article XXI, 2105.21.e.4. If any 15-second reading equals or exceeds the standard of 20% opacity, the Push shall be considered to be out of compliance.

2. Noncompliant observations shall not be included in either the numerator or the denominator if the ACHD determines that they are associated with shed repair activities required by Paragraph IV.A., above, or other compliance activities approved in writing as exempt by the ACHD.

3. No more than one observation per Push using Method 9 and one observation per Push using Chapter 109 shall be included in any calculation of Pushing compliance percentages conducted under Paragraphs IV and X or in determining liability for stipulated penalties under Paragraph VII. In the event of multiple readings of the same Push conducted in accordance with either Method 9 or Chapter 109 that produce inconsistent results, i.e. at least one compliant reading and one noncompliant reading, none of the inconsistent readings shall be used for purposes of Paragraph IV, VII and X.

O. If the 3-day rolling average compliance percentage for Pushing observations calculated as set forth in Paragraph IV.N above is below 90%, 15 minutes of coking time will be added to the Designated Minimum Daily Coking Time, beginning with the first Push conducted after 7:00 A.M. on the following day, provided however, that the Designated Minimum Daily Coking Time shall at no time exceed 24:00 hours.

P. If the 3-day rolling average compliance percentage for Pushing observations calculated as set forth in Paragraph IV.N above is 95% or greater, 15 minutes of coking time can be deducted from the Designated Minimum Daily Coking Time, beginning with the first Push conducted after 7:00 A.M. on the following day, provided, however, that the Designated Minimum Daily Coking Time shall at no time be less than 17:30 hours.

Q. Shenango shall submit a report detailing the last three days of Pushing inspections, the percentage of Pushing inspections in compliance, current coking time, and the calculated coking time for the next day within two hours after the final submission of pushing inspections each day to the ACHD.

R. On or before April 30, 2014, Shenango shall develop and submit to the ACHD a Charging Procedures Work Plan for approval.

S. Shenango shall implement the Charging Procedures Work Plan upon receipt of written approval by the ACHD.

V. CIVIL PENALTY

A. Shenango consents to the assessment of a civil penalty of THREE HUNDRED THOUSAND dollars (\$300,000.00) in full settlement of all issues and alleged violations arising under or related to those described in this Agreement, as of the Effective Date of this Agreement. Shenango shall pay the civil penalty within fifteen (15) Working Days of the Effective Date by corporate check, or the like, made payable to the “Allegheny County Clean Air Fund”, and sent to the Program Manager, Air Quality Program, Allegheny County Health Department, 301 39th Street, Bldg. No. 7, Pittsburgh, Pennsylvania 15201.

B. The ACHD has determined the penalty amount stated above in accordance with Article XXI, § 2109.06.b, reflecting relevant factors including: the nature, severity and frequency of the alleged violations; the maximum amount of civil and criminal penalties authorized by law; the willfulness of such violations; the impact of such violations on the public and the environment; the actions taken by Shenango to minimize such violations and to prevent future violations; and Shenango’s compliance history. The ACHD hereby releases and forever discharges Shenango from liability for any and all issues and alleged violations arising under or related to those described in this Agreement, including but not limited to those arising under Article XXI, Shenango’s TVOP, or state and federal law.

VI. SUPPLEMENTAL ENVIRONMENTAL PROJECT

A. Shenango shall spend THREE HUNDRED THOUSAND dollars (\$300,000.00) (hereinafter “SEP Expenditure Amount”) as part of a Supplemental Environmental Project (hereinafter “SEP”) designed to enhance particulate collection efficiency at the Battery S-1 quench tower.

B. The SEP Expenditure Amount required by Paragraph VI.A, above, shall be used to retain a consultant to conduct an engineering study to determine potential particulate collection enhancements to the quench tower (e.g. baffle upgrade, installation of a fogging system) and to implement some or all of the changes recommended as a result of that engineering study; provided, however, Shenango shall have no obligation to spend more than the SEP Expenditure Amount.

C. The engineering study required by Paragraph VI.B, above, shall be completed within 90 days of the Effective Date of this Agreement and be submitted to the ACHD for review and approval of any project(s) that may require an installation permit.

D. The particulate collection efficiency enhancements to the quench tower required by the SEP shall be completed by June 30, 2015.

E. If Shenango does not expend at least 95% of the \$300,000.00 on the SEP, the difference between the amount spent on the SEP and \$300,000.00 shall be paid as a civil penalty according to the procedures established in Paragraph VII.A, above.

VII. STIPULATED PENALTY

A. Pushing. On and after the Effective Date, for any exceedance of the limits set forth in Article XXI § 2105.21.e.4, Shenango shall be liable for a \$1000 per Push stipulated penalty per non-compliant inspection, conducted by Shenango, its contractor, and the ACHD. For purposes of this paragraph, compliance with an inspection will be determined on the basis of the test method used by the reader conducting the inspection, as described in Paragraphs IV.F or IV.G, above.

B. Coking Time. Should Shenango fail to operate at, or above, the Designated Minimum Daily Coking Time pursuant to the requirements of Paragraphs IV.M, IV.N, IV.O, or IV. P above, Shenango shall pay stipulated penalties of \$25,000 for each day during which any required coking time adjustments were not completed.

C. Improvement and Maintenance. Should Shenango fail to meet any deadlines detailed in Paragraphs IV.A, IV.C, IV.D, and IV.S, above, Shenango shall be liable for a stipulated penalty per each Day that the deadlines are not met, in accordance with the following schedule:

Number of Days Behind Dea	Daily Stipulated Penalty
1-7	\$1,500
8 or more	\$3,000

D. Report and Calculations. For Shenango's failure to submit any report or calculation pursuant to the requirements of Paragraphs IV.B, IV.Q, and IV.R, above, on or before the date required in this Agreement, or for Shenango's failure to submit any such report or calculation in accordance with the specific requirements of this Agreement, Shenango shall pay a stipulated penalty of \$1000 per Day for each Day that such required report or calculation remains unsubmitted.

E. Payment. All Stipulated Penalties incurred under this Agreement shall be due and owed automatically 30 Days after the close of each calendar quarter. Stipulated Penalty payments shall be paid by corporate check, or the like, made payable to the "Allegheny County Clean Air Fund", and sent to the Program Manager, Air Quality Program, Allegheny County Health Department, 301 39th Street, Bldg. No. 7, Pittsburgh, Pennsylvania 15201.

VIII. FORCE MAJEURE

A. Force Majeure Event. For the purpose of this Agreement, "Force Majeure" as applied to Shenango or to any person or entity controlled by Shenango, is defined as any event arising from circumstances or causes beyond the control of Shenango, or any person or entity controlled by Shenango, including, but not limited to, its officers, directors, employees, agents, representatives, contractors, subcontractors, or consultants, that may delay or prevent performance of an obligation under this Agreement, despite Shenango's diligent efforts to fulfill the obligation. Such Force Majeure events include, but are not limited to, events such as floods, fires, tornadoes, other natural disasters, labor disputes, and unavailability of necessary equipment beyond the reasonable control of Shenango. The requirement to exercise "diligent efforts to fulfill the obligation" includes using diligent efforts to mitigate any delay caused by a Force Majeure event, as that event is occurring and/or following such an event, so that the delay or non-performance is minimized to the greatest extent reasonably possible.

B. Notice of Event. If Shenango is prevented from complying with any requirement of this Agreement due to a potential Force Majeure event, Shenango may claim that such an event constitutes Force Majeure and may petition the ACHD for relief by notifying the ACHD in the following manner:

1. By telephone within one hundred-twenty (120) hours, and by U.S. Mail, or the equivalent, within ten (10) Working Days of the date that Shenango becomes aware, or with reasonable care should have become aware, of the potential Force Majeure event impeding performance.

2. Written notice of a potential Force Majeure event shall include the following:

- a. A description of the event and a rationale for attributing the event to Force Majeure;
- b. A description of the efforts that have been made to prevent, and efforts being made to mitigate, the effects of the event and to minimize the length of delay or non-performance;
- c. An estimate of the duration of the delay or non-performance;
- d. A description of a proposed timetable for implementing measures to bring Shenango back into compliance with this Agreement; and
- e. Available documentation, which, to the best knowledge and belief of Shenango, supports Shenango's claim that the delay or non-performance was attributable to a Force Majeure event.

IX. REOPENING

A. In the event that any condition contained in this Agreement is modified or declared void by the presiding court so as to create a substantial burden on Shenango to comply with the timeframes set forth in this Agreement, such timeframes may be extended for a time as agreed to by the Parties.

X. EFFECTIVE DATE AND TERMINATION

A. It is the intention of the parties that they will move jointly to terminate this Agreement after Shenango is able to demonstrate three (3) consecutive 30 Day periods with an average compliance percentage for Pushing observations at or above 95% or three (3) years after the Effective Date, whichever is sooner. For purposes of this paragraph, compliance with an

inspection will be determined on the basis of the test method used by the reader conducting the inspection, i.e. Paragraphs IV.F or IV.G.

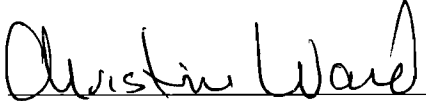
XI. SIGNATORIES

A. The Parties hereto have caused this Agreement to be executed by their duly authorized representatives. The undersigned representative(s) of Shenango certify under penalty of law, as provided by 18 Pa.C.S. § 4909, that he is authorized to execute this Agreement on behalf of Shenango; that Shenango consents to the entry of this Agreement as a final Order of the Court of Common Pleas of Allegheny County; and that, except as otherwise provided herein, Shenango hereby knowingly waives its rights to challenge this Agreement and to challenge its content or validity under any applicable provision of law. Signature by Shenango's attorney certifies only that this Agreement has been signed after consulting with counsel.

XII. FINAL JUDGMENT

A. Upon approval and entry of this COA by the Court, this COA shall constitute a final judgment of the Court in this action as to the ACHD and Shenango. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment .

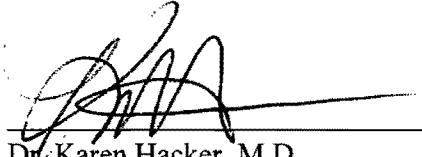
DATED this 8th day of April, 2014



Judge Christine A. Ward

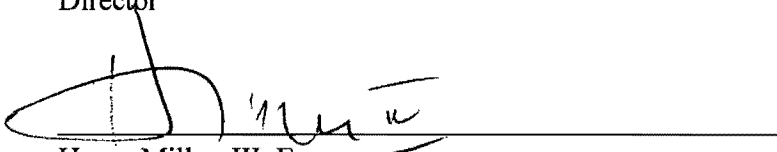
Allegheny County Court of Common Pleas

ALLEGHENY COUNTY HEALTH DEPARTMENT



Dr. Karen Hacker, M.D.
Director

4/7/14
Date



Henry Miller, III, Esq.
Solicitor

4/7/14
Date

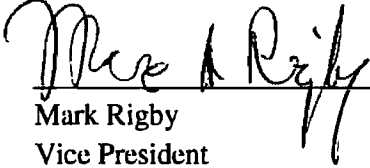


Michael A. Parker, Esq.
Assistant Solicitor

4/7/14
Date

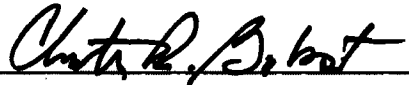
For:

SHENANGO INCORPORATED



Mark Rigby
Vice President

4/7/14
Date



Chester R. Babst
Counsel for Shenango Incorporated

4-7-14
Date