

Permit, specifically Condition V.I.1.b and imposed a civil penalty in the amount of \$3,000.00;

WHEREAS, on August 15, 2018, Neville filed an appeal of the July 11 enforcement order and posted the civil penalty for purposes of perfecting its appeal and;

WHEREAS, Condition V.E.2.a requires Neville to conduct emissions testing for its No. 2 Packaging Center every five years and;

WHEREAS, as of August 2018, Neville's last emissions test for the #2 Packaging Center process was July 25, 2012 and;

WHEREAS, on August 23, 2018, Neville conducted a emissions test and said test results demonstrated that Neville was compliant with limits set forth in its operating permit and;

WHEREAS, on November 6, 2018, Allegheny County, acting by and through the ACHD issued an enforcement order (Order No. 181103) against Neville for violations of its Title V Operating Permit, specifically Condition V.E.2.a and imposed a civil penalty in the amount of \$3,935.00 and;

WHEREAS, Order No. 181103 contemplated, as part of its penalty calculation, the economic benefit of non-compliance with the conditions of its operating permit and;

WHEREAS, on December 6, 2018, Neville filed an appeal of the November 6 enforcement order and posted the civil penalty for purposes of perfecting its appeal and;

WHEREAS, the Parties, following discussion of the various aspects of the violations, have determined that the matter may be resolved without the necessity of further litigation and indeed, desire to resolve any disputes respecting enforcement orders 180701 and 181103 by the issuance of this Consent Order and;

WHEREAS, the Parties agree that Neville, by the execution of this Consent Order, does not waive any defenses or claims available to it as a matter of law, and;

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

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

I. JURISDICTION

1. Solely for the purposes of this Consent Order and the underlying alleged violations, Neville waives all objections and defenses they may have to jurisdiction or venue. Neville shall not challenge ACHD's jurisdiction to enter into or to enforce this Consent Order.

2. The Parties agree that as a consequence of Neville's appeal, the Hearing Officer of the Allegheny County Health Department maintains jurisdiction over the matters currently on appeal, and therefore, jurisdiction over the resolution of said matters presently on appeal.

II. APPLICABILITY

3. The provisions of this Consent Order shall apply to, be binding upon, and inure to the benefit of the ACHD, Neville and upon their respective officers, directors, employees, successors, and assigns.

4. The undersigned representative of Neville certifies that he or she is fully authorized to execute this Consent Order on behalf of Neville, and to legally bind Neville to this Consent Order.

III. CONDITIONS

5. The Parties agree that because Neville opted to reduce the amount of emitted pollutant by shutting down the equipment following the non-compliant stack test, the \$3,000.00

civil penalty imposed in Enforcement Order 180701 shall be reduced to \$1,560.00.

6. The Parties agree that Neville will conduct emissions testing for its #2 Packaging Center process by July 25, 2022.

7. The Parties similarly agree that because Neville has agreed to condition III.6 *supra*, the economic benefit of not conducting the test in a timely manner is diminished by the fact that it will conduct the next test as if this test was completed on-time. Consequently, the Parties agree that the civil penalty imposed in Enforcement Order 181103 shall be reduced by the calculated economic benefit of delaying the stack test (\$2,050.00) and thereby the civil penalty shall be reduced to \$1,885.00.

8. The Parties agree that the conditions that predicated the issuance of Enforcement Order Nos. 180701 and 181103 have been corrected to the satisfaction of the ACHD.

9. Execution of this Consent Order by Neville shall operate as a withdrawal of its appeals of Enforcement Order Nos. 180701 and 181103.

10. The Parties agree that within thirty (30) days of the date of this Consent Order, ACHD shall reimburse Neville the sum of \$3,490.00 and that said sum is attributable to the reduction of the civil penalties imposed at Enforcement Order Nos. 180701 and 181103. Sum shall be reimbursed from funds transmitted by Neville as part of its appeals.

11. The Parties do not authorize any other persons to use the findings in this Consent Order in any matter or proceeding.

12. Nothing herein is intended to limit the authority of the ACHD with respect to violations that may have occurred prior or subsequent to the date of this Consent Order, if any, and that are not specifically the subject of either the July 11 or November 6, 2018 Enforcement Orders, or to limit the authority of ACHD to seek further enforcement of this Consent Order.

13. In the event that Neville fails to comply with any provision of this Consent Order, the ACHD may, in addition to any remedies prescribed herein, pursue any remedy available under Article XXI, Section 2109 *et seq.* of the Allegheny County Rules and Regulations for a violation of an Order of the ACHD, including an action to enforce this Consent Order.

14. This Consent Order shall constitute the entire integrated agreement of the Parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for the purposes of determining the meaning or intent of any provisions herein in any litigation or other proceeding.

15. The Parties shall bear their respective attorneys fees, expenses, and other costs with regard to the prosecution or defense of this matter or any related matters arising prior to the execution of this Consent Order.

16. Signatures sent via facsimile or electronic mail shall constitute original signatures for purposes of this Consent Order.

IN WITNESS WHEREOF, the Parties hereto have caused this Consent Order to be executed by their duly authorized representatives. Each of the undersigned representatives of Neville and ACHD certify under penalty of law, as provided by 18 Pa.C.S. § 4909, that he or she is authorized to execute this Consent Order on behalf of his or her respective Party; that Neville consents to the entry of this Consent Order as a final ORDER of the ACHD; and that, except as otherwise provided herein, Neville hereby knowingly waives its right to appeal this Consent Order and to challenge its content or validity, which rights may be available under Article XI of the ACHD Rules and Regulations for Hearings and Appeals, and Pennsylvania Administrative Agency Law, 2 Pa.C.S. §103(a), or any other applicable provision of law. Signature by Neville's

attorney certifies only that this Consent Order has been signed after consulting with counsel.

DATED this 17th day of January, 2019

For:
ALLEGHENY COUNTY HEALTH DEPARTMENT

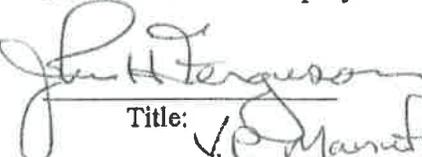

Jayne Graham, Air Program Manager for
The Allegheny County Health Department

1/17/2019
Date

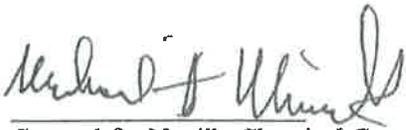

Jason K. Willis, Esq.
Assistant Solicitor

1/17/19
Date

For:
Neville Chemical Company


Title: V.P. Manufacturing

1/17/19
Date


Counsel for Neville Chemical Company

1/17/19
Date


Hearing Officer

1/18/19
Date