



CITY OF SAINT PAUL
Mayor Christopher B. Coleman

Civil Division
400 City Hall
15 West Kellogg Blvd
Saint Paul, Minnesota 55102

Telephone: (651) 266-8710
Facsimile: (651) 298-5619

June 29, 2017

David M. Aafedt
Winthrop Weinstein, P.A.
Capella Tower
225 South Sixth Street, Ste. 3500
Minneapolis, MN 55402-4629

RE: Recycling Processing Center license held by Strategic Materials, Inc. d/b/a Strategic Materials for the premises located at 195 Minnehaha Avenue East in Saint Paul.
License ID #: 20100003436
OAH Docket No.: 80-6020-34290

Mr. Aafedt:

Enclosed and served upon you is the City's Amended Notice of Violation Notice Of Intent to Suspend License and Add Additional Conditions to License concerning the above-mentioned licensee. It will also be sent to you by electronic mail and uploaded to the OAH file online.

Sincerely,

A handwritten signature in cursive script, appearing to read "Therese Skarda".

Therese Skarda
Assistant City Attorney

Cc: LauraSue Schlatter, Administrative Law Judge, Office of Administrative Hearings
P.O. Box 64620, St. Paul, MN 55164-0620

Enclosure: City's Amended Notice of Violation Notice Of Intent to Suspend License and Add Additional Conditions

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

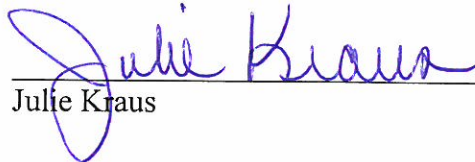
COUNTY OF RAMSEY)

Julie Kraus, being first duly sworn, deposes and says that on the 29th day of June she served the attached **CITY'S AMENDED NOTICE OF VIOLATION NOTICE OF INTENT TO SUSPEND LICENSE AND ADD ADDITIONAL CONDITIONS TO LICENSE** and a correct copy thereof in an envelope addressed as follows:

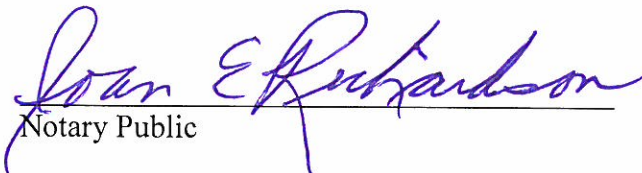
David M. Aafedt
Winthrop Weinstine
Capella Tower
225 South Sixth Street, Suite 3500
Minneapolis, MN 55402-4629

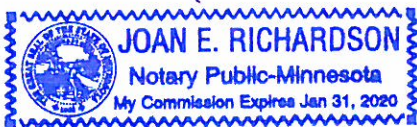
LauraSue Schlatter
Administrative Law Judge
Office of Administrative Hearings
P.O. Box 64620
St. Paul, MN 55164-0620

(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.


Julie Kraus

Subscribed and sworn to before me
this 29th day of June, 2017


Notary Public





CITY OF SAINT PAUL

Christopher B. Coleman, Mayor

Civil Division

400 City Hall

15 West Kellogg Blvd.

Saint Paul, Minnesota 55102

Telephone: 651 266-8710

Facsimile: 651 298-5619

June 29, 2017

**AMENDED NOTICE OF VIOLATION
NOTICE OF INTENT TO SUSPEND LICENSE AND
ADD ADDITIONAL CONDITIONS TO LICENSE**

David M. Aafedt
Winthrop Weinstein, P.A.
Capella Tower
225 South Sixth Street, Ste. 3500
Minneapolis, MN 55402-4629

RE: Recycling Processing Center license held by Strategic Materials, Inc. d/b/a Strategic Materials for the premises located at 195 Minnehaha Avenue East in Saint Paul.
License ID #: 20100003436

Dear Mr. Aafedt:

The Department of Safety and Inspections (DSI) has recommended adverse action against the Recycling Processing Center license held by Strategic Materials, Inc. d/b/a Strategic Materials for the premises located at 195 Minnehaha Avenue East in Saint Paul. The basis for the recommendation is as follows:

Strategic Materials, Inc., (“Licensee”) has been licensed since 2011 as a Class N Recycling Processing Center, pursuant to Saint Paul Legislative Code Chapter 408.

The facility receives and separates glass material from loads of co-mingled post-consumer waste. The separated glass is then crushed into fine, dust-like particles at the facility, loaded onto rail cars or tractor-trailers, and transported to another facility for use in glass manufacturing. The processing and handling of this material generates plumes of glass dust, which have repeatedly been blown off of the property and onto neighboring properties. Further, piles of post-consumer waste have produced noxious odors that have travelled off the property.

In early 2014, the DSI began receiving complaints from neighboring properties indicating that dust from Licensee's operation was coating complainants' vehicles, yards, and the exterior and interior home surfaces. These complaints were substantiated by Department staff, and a notice was sent to Licensee. Licensee indicated that it was creating a corrective action plan to deal with the issues outlined in the notice.

In August of 2014, Licensee was sent a Notice of Violation related to the fugitive dust issue, and assessed a \$500 penalty, which Licensee paid.

Throughout the fall of 2014, the Department continued to receive complaints related to dust blowing off the property. These complaints were corroborated by Department Staff.

In January of 2015, Licensee was sent another Notice of Violation related to the fugitive dust issue, and assessed a \$1,000 penalty. Licensee once again paid the assessed penalty.

The complaints related to Licensee's operations continued, and on June 7, 2015, the The City of Saint Paul, Minnesota Department of Health ("MDH") and the Minnesota Pollution Control Agency ("MPCA"), conducted a joint inspection of the site.

As a result of the inspection, the MPCA documented numerous violations in a Case Development Form/ Enforcement Response Plan ("CDF"). The CDF summarizes 6 violations and including, fugitive dust or airborne particulate matter. Specifically the CDF documented that "fugitive dust was observed leaving the Facility during both the July 9 and 22, 2015 site visits."

On March 29, 2016 the MPCA issued an Administrative Penalty Order to SMI

In August of 2015, MDH issued Licensee a Health Consultation letter, indicating, among other things, that the transmission of glass dust off the property was a public health concern, and recommending continued efforts to reduce glass dust release.

In March of 2016, the MPCA issued invoice # 10000003478 to Licensee assessing \$14,500 in fines for the violations found, documented and investigated during the July 2015 site visits.

On May 13, 2016 SCS Engineers (SCS) submitted a plan in response to MPCA Administrative Penalty Order. The letter outlined the corrective action that SMI would be taking to address the violations found by the MPCA and documented in the Administrative Penalty Order. One of the corrective actions submitted was a fugitive dust plan.

On April 15, 2016, Department Inspector Jerome Benner II visited the complainant's home and observed particulate dust of consistent composition with the dust described in the August 2015 MDH Letter Health Consultation document on the complainant's property. The inspector took photos of this violation.

On May 6, 2015, Department Inspector Benner and Licensing Manager Eric Hudak conducted a site inspection and found bunker storage which exceeded the height of the walls. The inspector took photos of this violation.

In spite of the corrective actions taken by the Department, the MDH and the MPCA the release of fine glass particulate matter has continued to occur.

On December 7, 2016, the Department received a complaint from a nearby resident. The complainant reported that operations actively taking place at SMI were producing plumes of glass dust and that the dust was again migrating off of the site. Licensing Manager, Eric Hudak responded and observed and photographed three-sided containment bunkers on the east side of the plant which were overfilled and exceeded their capacity and a front end loader repeatedly dumping loads of material into a semi-tractor trailer. This activity generated plumes of airborne dust. Licensing Manager Hudak observed that the operator of the front end loader was in a position to notice the fugitive dust, but took no corrective action.

These incidents are violations of the following license conditions:

#1: "All processing activities shall be conducted within a wholly enclosed building."

#2 Outdoor storage of materials shall be within covered containers (e.g. dumpsters/roll-offs) or in three-sided containment bunkers. The walls of the bunker must be of sufficient height to provide visual screening of the piles.

#3: "Waste by-product of the recycling process or other materials, such as wind-blown paper or putrescible items, must be secured in covered refuse containers; to prevent littering and minimize vermin and odor problems."

#7: "The licensee shall follow conditions of Minnesota PCA Industrial Permit for storm and sanitary discharges."

#9: "Exterior storage, loading, unloading and other traffic operations shall be in accordance with the approved site plan on file with the Dept. of Safety & Inspections."

Saint Paul Legislative Code § 408.05 (b) (2) states: "All exterior storage and processing areas must comply with the requirements for containers and screen set forth in section 60.612 (18) and section 60.613(3)(a) if in an I-1 zoning district or section 60.624(1) if in an I-2 zoning district."

Saint Paul Legislative Code § 408.05(b) (7) states: “No material used in the business shall rest on or protrude on any public property or be permitted to be blown off the premises.”

Saint Paul Legislative Code § 310.06 (b) (6) (a) provides the following grounds for adverse action: “The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has violated, or performed any act which is a violation of any of the provisions of these chapters or of any statute, ordinance or regulation reasonably related to the licensed activity, regardless of whether criminal charges have or have not been brought in connection therewith”

Saint Paul Legislative Code § 310.06 (b) (8) provides the following grounds for adverse action: “*the licensed business, or the way in which such business is operated, maintains or permits conditions that unreasonably annoy, injure or endanger the safety, health, morals, comfort or repose of any considerable number of members of the public.*”

As a result of these continued violations, per Saint Paul Legislative Code § 310.05 (m) (1), the licensing department will recommend a \$2,000.00 matrix penalty and a ten (10) day suspension of your Recycling Processing Center license. In addition the licensing office will recommend new licensing conditions be placed on the license to ensure site plan compliance, employment of best management practices for control of dust, odor and noise as well as continued compliance with any corrective action plans.

If you have questions about these options, please feel free to contact me at 266-8710.

Sincerely,



Therese Skarda
Assistant City Attorney

Cc: LauraSue Schlatter, Administrative Law Judge, Office of Administrative Hearings,
P.O. Box 64620, St. Paul, MN 55164-0620