

FILED

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

GERALD E. FUERST  
CLERK OF COURTS  
CUYAHOGA COUNTY, OHIO

State of Ohio, ex rel. Jim Petro  
Attorney General of Ohio

30 E. Broad St Columbus, OH 43215

Plaintiff,

CASE NO. \_\_\_\_\_

JUDGE \_\_\_\_\_

v.

Complaint for Civil Penalty and  
Injunctive Relief

GENERAL ENVIRONMENTAL  
MANAGEMENT, LLC  
c/o B & MCD., INC. (statutory agent)  
388 S. Main St., Suite 500  
Akron, Ohio 44308

ESG Holdings LLC  
c/o B & MCD., INC. (statutory agent)  
388 S. Main St., Suite 500  
Akron, Ohio 44308

ERIC LOFQUIST  
Owner/President  
General Environmental  
Management LLC  
2655 Transport Road  
Cleveland, OH 44115

AND

SCOTT FORSTER  
Owner/Vice President  
General Environmental  
Management LLC  
2655 Transport Road  
Cleveland, OH 44115

Defendants.

Plaintiff State of Ohio, by and through the Attorney General, Jim Petro, at the written request of the Director of Environmental Protection ("Director"), hereby institutes this action to

enforce Chapter 3704 of the Ohio Revised Code and the rules adopted thereunder, as described in this Complaint.

### **GENERAL ALLEGATIONS**

1. Defendant General Environmental Management, LLC, hereafter referred to as “GEM,” is a limited liability company, organized under the laws of the State of Ohio, with its principal place of business at 2655 Transport Road, Cleveland, Ohio and 2727 Rockefeller Blvd (previously 2727 Transport Road), Cleveland, Ohio.

2. Defendant ESG Holdings, LLC, hereafter referred to as “ESG,” is a limited liability company, organized under the laws of the State of Ohio, with its principal place of business at 2655 Transport Road, Cleveland, Ohio and 2727 Rockefeller Blvd., Cleveland, Ohio.

3. Defendant Eric Lofquist owns and manages Defendant GEM and serves as its President, and alone or in conjunction with others, caused, participated in, controlled, and/or ordered the violations of law alleged in this Complaint. In addition or in the alternative, Defendant Eric Lofquist knew or should have known about the violations alleged in this Complaint, and by himself or in conjunction with others had the authority to prevent or stop the violations alleged in this Complaint, but failed to exercise his authority to do so.

4. Defendant Scott Forster owns and manages Defendant GEM and serves as its Vice President and alone or in conjunction with others, caused, participated in, controlled, and/or ordered the violations of law alleged in this Complaint. In addition or in the alternative, Defendant Scott Forster knew or should have known about the violations alleged in this Complaint, and by himself or in conjunction with others had the authority to prevent or stop the violations alleged in this Complaint, but failed to exercise his authority to do so.

5. Defendants GEM, ESG, Eric Lofquist and Scott Forster are hereafter referred to

collectively as “Defendants.”

6. At all times pertinent to the allegations in this Complaint, GEM has been the “owner or operator,” as defined by Ohio Adm. Code 3745-15-01(T), of a waste processing facility located at 2727 Rockefeller Blvd., Cleveland, Ohio (“the facility”).

7. At all times pertinent to the allegations in this Complaint, ESG has also been the “owner or operator,” as defined by Ohio Adm. Code 3745-15-01(T), of a waste processing facility located at 2727 Rockefeller Blvd., Cleveland, Ohio (“the facility”).

8. Defendants’ facility includes wastewater treatment components, described in the counts below, each of which constitutes an “air contaminant source” as defined by R.C. 3704.01(C) and Ohio Adm. Code 3745-35-01(B)(1).

9. R.C. 3704.05(G) states that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under R.C. Chapter 3704.

10. R.C. 3704.05(C) provides, in part, that no person who is the holder of a permit issued pursuant to R.C. 3704.03(F) and (G) shall violate any of the permit’s terms or conditions.

11. Defendants are “persons” as defined by R.C. 3704.01(O) and Ohio Adm. Code 3745-15-01(U).

12. The allegations contained in the preceding and subsequent paragraphs of this Complaint are incorporated by reference into each count of this Complaint as if fully restated therein.

**FIRST COUNT**  
**FAILURE TO VERIFY ORGANIC**  
**EMISSIONS CAPTURE EFFICENCIES- SOURCE P011**

13. On July 8, 1999, pursuant to R.C. 3704.03(F) and Ohio Adm.Code Chapter 3745-31, the Director issued a Permit to Install to Research Oil Company for a wastewater pre-treatment

process known as source "P011."

14. On or about July 9, 2001, Defendant GEM and/or Defendant ESG purchased the facility, including the Permit to Install governing source P011.

15. The Permit to Install governing source P011 requires organic emission capture efficiency of 75 percent by weight and organic emissions destruction efficiency of 90 percent by weight. The Permit to Install required the submission of reports to the Director of the Ohio EPA showing compliance.

16. From July 9, 2001 and continuing to the present, Defendants GEM, ESG, Forster, and Lofquist operated source P011 without properly achieving, verifying and/or reporting of the organic capture or destruction efficiencies required in the Permit to Install for source P011.

17. Defendants' actions, as alleged in this Count, constitute violations of R.C. 3704.05(C), for which Defendants are subject to injunctive relief pursuant to R.C. 3704.06(B) and for which Defendants are liable to pay the State of Ohio civil penalties of up to twenty-five thousand dollars (\$25,000.00), for each day of each violation, pursuant to R.C. 3704.06(C).

**SECOND COUNT**  
**FAILURE TO VERIFY ORGANIC**  
**EMISSIONS CAPTURE EFFICENCIES- SOURCE P014**

18. On June 30, 1999, pursuant to R.C. 3704.03(F) and Ohio Adm.Code Chapter 3745-31, the Director issued a Permit to Install to Research Oil Company for a wastewater pre-treatment process consisting of two 6,300 gallon treatment vessels known as source "P014."

19. On or about July 9, 2001, Defendant GEM and/or Defendant ESG purchased the facility, including the Permit to Install governing source P014.

20. The Permit to Install governing source P014 requires organic emission capture efficiency of 75 percent by weight and organic emissions destruction efficiency of 90 percent by

weight. The Permit to Install required the submission of reports to the Director of the Ohio EPA showing compliance.

21. From July 9, 2001 and continuing to the present, Defendants GEM, ESG, Forster, and Lofquist operated source P014 without properly achieving, verifying and/or reporting of the organic capture or destruction efficiencies required in the Permit to Install for source P014.

22. Defendants' actions, as alleged in this Count, constitute violations of R.C. 3704.05(C), for which Defendants are subject to injunctive relief pursuant to R.C. 3704.06(B) and for which Defendants are liable to pay the State of Ohio civil penalties of up to twenty-five thousand dollars (\$25,000.00), for each day of each violation, pursuant to R.C. 3704.06(C).

**THIRD COUNT**  
**FAILURE TO VERIFY ORGANIC**  
**EMISSIONS CAPTURE EFFICENCIES- SOURCE P016**

23. On June 30, 1999, pursuant to R.C. 3704.03(F) and Ohio Adm.Code Chapter 3745-31, the Director issued a Permit to Install to Research Oil Company for a wastewater pre-treatment process consisting of a 5,400 gallon treatment vessel known as source "P016."

24. On or about July 9, 2001, Defendant GEM and/or Defendant ESG purchased the facility, including the Permit to Install governing source P016.

25. The Permit to Install governing source P016 requires organic emission capture efficiency of 75 percent by weight and organic emissions destruction efficiency of 90 percent by weight. The Permit to Install required the submission of reports to the Director of the Ohio EPA showing compliance.

26. From July 9, 2001 and continuing January 1, 2004, Defendants GEM, ESG, Forster, and Lofquist operated source P016 without properly achieving, verifying and/or reporting of the organic capture or destruction efficiencies required in the Permit to Install for source P016.

27. Defendants' actions, as alleged in this Count, constitute violations of R.C. 3704.05(C), for which Defendants are subject to injunctive relief pursuant to R.C. 3704.06(B) and for which Defendants are liable to pay the State of Ohio civil penalties of up to twenty-five thousand dollars (\$25,000.00), for each day of each violation, pursuant to R.C. 3704.06(C).

**FOURTH COUNT**  
**FAILURE TO VERIFY ORGANIC**  
**EMISSIONS CAPTURE EFFICENCIES- SOURCE P018**

28. On June 30, 1999, pursuant to R.C. 3704.03(F) and Ohio Adm.Code Chapter 3745-31, the Director issued a Permit to Install to Research Oil Company for a wastewater pre-treatment process consisting of a 9,000 gallon treatment vessel known as source "P018."

29. On or about July 9, 2001, Defendant GEM and/or Defendant ESG purchased the facility, including the Permit to Install governing source P018.

30. The Permit to Install governing source P018 requires organic emission capture efficiency of 75 percent by weight and organic emissions destruction efficiency of 90 percent by weight. The Permit to Install required the submission of reports to the Director of the Ohio EPA showing compliance.

31. From July 9, 2001 and continuing to the present, Defendants GEM, ESG, Forster, and Lofquist operated source P018 without properly achieving, verifying and/or reporting of the organic capture or destruction efficiencies required in the Permit to Install for source P018.

32. Defendants' actions, as alleged in this Count, constitute violations of R.C. 3704.05(C), for which Defendants are subject to injunctive relief pursuant to R.C. 3704.06(B) and for which Defendants are liable to pay the State of Ohio civil penalties of up to twenty-five thousand dollars (\$25,000.00), for each day of each violation, pursuant to R.C. 3704.06(C).

**FIFTH COUNT**  
**FAILURE TO VERIFY ORGANIC**

**EMISSIONS CAPTURE EFFICENCIES- SOURCE P021**

33. On June 30, 1999, pursuant to R.C. 3704.03(F) and Ohio Adm.Code Chapter 3745-31, the Director issued a Permit to Install to Research Oil Company for a wastewater pre-treatment process consisting of a 9,000 gallon treatment vessel known as source "P021."

34. On or about July 9, 2001, Defendant GEM and/or Defendant ESG purchased the facility, including the Permit to Install governing source P021.

35. The Permit to Install governing source P021 requires organic emission capture efficiency of 75 percent by weight and organic emissions destruction efficiency of 90 percent by weight. The Permit to Install required the submission of reports to the Director of the Ohio EPA showing compliance.

36. From July 9, 2001 and continuing to the present, Defendants GEM, ESG, Forster, and Lofquist operated source P021 without properly achieving, verifying and/or reporting of the organic capture or destruction efficiencies required in the Permit to Install for source P021.

37. Defendants' actions, as alleged in this Count, constitute violations of R.C. 3704.05(C), for which Defendants are subject to injunctive relief pursuant to R.C. 3704.06(B) and for which Defendants are liable to pay the State of Ohio civil penalties of up to twenty-five thousand dollars (\$25,000.00), for each day of each violation, pursuant to R.C. 3704.06(C).

**SIXTH COUNT**  
**STATUTORY/OHIO ADMINISTRATIVE CODE**  
**NUISANCE**

38. Ohio Adm.Code 3745-15-07(A) declares the following to be a public nuisance: "[t]he emission or escape into the open air from any source or sources whatsoever of smoke, ashes, dust, dirt, grime, acids, fumes, gases, vapors, odors, or any other substances or combination of

substances, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property.”

39. Ohio Adm.Code 3745-15-07(A) states that it shall be unlawful for any person to cause, permit or maintain any such public nuisance.

40. On numerous dates from at least February 14, 2005 to the present, Defendants have caused the emission of smoke, vapors, fumes, odors and other substances into the open air, from one or more sources, including sources P011, P014, P016, P018, P021, in such a manner or in such amounts as to endanger the health, safety or welfare of the public or to cause unreasonable injury or damage to property.

41. On numerous dates from at least February 14, 2005 to the present, Defendants have caused, permitted or maintained a public nuisance as defined in Ohio Adm.Code 3745-15-07(A).

42. Defendants’ actions, as alleged in this Count, constitute violations of Ohio Adm.Code 3745-15-07(A) and R.C. 3704.05(G), for which Defendants are subject to injunctive relief, pursuant to R.C. 3704.06(B), and a civil penalty of up to twenty-five thousand dollars (\$25,000) for each day of each violation, pursuant to R.C. 3704.06(C).

**SEVENTH COUNT**  
**STATUTORY NUISANCE**

43. R.C. 3767.13(A) provides “[n]o person shall erect, continue, use, or maintain a building, structure, or place for the exercise of a trade, employment, or business, or for the keeping or feeding of an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort, or property of individuals or of the public.”

44. R.C. 3767.13(B) provides “[n]o person shall cause or allow offal, filth, or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public.”

45. R.C. 3767.03 provides that “[w]henver a nuisance exists, the attorney general ... may bring an action in equity in the name of the state, upon the relation of the attorney general ... to abate the nuisance and to perpetually enjoin the person maintaining the nuisance from further maintaining it.”

46. On numerous dates from at least February 14, 2005 to the present, Defendants have caused, permitted or maintained a public nuisance as defined in R.C. 3767.13.

47. Defendants’ actions, as alleged in this Court, constitute violations of R.C. 3767.13, for which Defendants are subject to injunctive relief, pursuant to R.C. 3767.03.

**WHEREFORE**, Plaintiffs respectfully request that the Court:

A. Permanently enjoin Defendants and their successors and assigns, including any purchasers of the property at 2655 Transport Road or 2727 Rockefeller Blvd., Cleveland Ohio to comply with R.C. Chapter 3704 and R.C. 3767.13, and the regulations promulgated thereunder;

B. Permanently enjoin Defendants and their successors and assigns, including any purchasers of the property at 2655 Transport Road or 2727 Rockefeller Blvd., Cleveland Ohio to abate the nuisance existing through their operations and ownership of the property at 2655 Transport Road or 2727 Rockefeller Blvd., Cleveland, Ohio;

C. Order Defendants to pay a civil penalty of twenty-five thousand dollars (\$25,000) for each day of each violation of a statute or regulation of the State of Ohio alleged in this Complaint, including each day of violation subsequent to the filing of this action, pursuant to R.C. 3704.06(C). This Complaint seeks relief in excess of \$25,000 and injunctive relief;

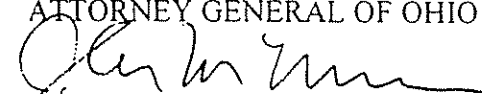
D. Order the defendants to pay all costs and fees for this action, including attorney fees assessed by the Office of the Ohio Attorney General;

E. Retain jurisdiction of this suit for the purpose of making any order or decree which it may deem necessary at any time to carry out its judgment; and,

F. Grant such further relief as this Court may deem necessary and appropriate.

Respectfully submitted,

JIM PETRO  
ATTORNEY GENERAL OF OHIO



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