

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In the Matter of:

Dennis K. Rice	:	
Dale L. Cotton	:	
Raymond W. Patridge	:	Clean Streams Law
Custom Particle Reduction, Inc.	:	
5189 Stump Rd., Pipersville, PA	:	
Plumstead Township	:	
Bucks County	:	

ORDER

1. The Department of Environmental Protection (“Department”) is the executive agency of the Commonwealth vested with the authority to administer and enforce the Clean Streams Law, the Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. § 691.1 et seq. (“Clean Streams Law”), § 1917-A of the Administrative Code, the Act of April 9, 1929, P.L. 177, as amended, and the Rules and Regulations promulgated thereunder.
2. The property located at 5189 Stump Road, Pipersville, PA, 18947 (“Property”) is owned by three individuals: Dennis K. Rice (“Rice”); Dale L. Cotton (“Cotton”) and Raymond W. Patridge (“Patridge”).
3. The Property housed several businesses including Custom Particle Reduction, Inc. Custom Particle Reduction, Inc. (“Custom Particle”) is a Pennsylvania corporation with a registered office address of Box 479, 5189 Stump Road, Plumsteadville, PA 18949. Rice is listed as the President of Custom Particle and Cotton and Patridge are listed as the Secretary and Treasurer, respectively.
4. Both the individuals listed in Paragraph 2 above, and Custom Particle, constitute “persons” as that term is defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1.
5. Custom Particle specializes in blending, screening, and reducing a range of materials, which were stored on the Property.
6. A fire occurred on the Property on June 29, 2010, which resulted in extensive damage. Water from two ponds, one located on the Property (Pond 1”), and another adjacent to the Property (“Pond 2”), (together “the Ponds”), and water trucked in from other sources, was utilized to combat the fire.

7. As a result of the fire and firefighting activities, in the course of which large quantities of water were sprayed on the fire, various chemical constituents which were stored on the Property were released with the firefighting water runoff. On August 4, 2010, Rice provided the Department with a list of the chemicals known to be on the property at the time of the fire. That list is attached as Exhibit 1 to this Order, and incorporated herein.
8. Inspections by the Department at the time of the fire revealed that contaminated runoff from the fire fighting activities, which constitutes "pollution" pursuant to Section 1 of the Clean Streams Law, 35 P.S. § 691.1, flowed into Pond 1, and, from Pond 1 into Pond 2, via a connecting culvert. When the water level in Pond 2 reached an overflow pipe, the water entered a previously dry swale and flowed into nearby fields, where it was observed seeping into the ground.
9. A representative of the Philadelphia Water Department, responding to the fire, took samples from the runoff leaving Pond 2 on the date of the fire, June 29, 2010; benzene was detected above the MCL at 138.08 ppb.
10. Subsequently, four property owners in the vicinity of the fire reported contamination of their drinking water wells.
11. On July 8, 2010, the Bucks County Department of Health visited the sites of the neighboring wells which were the subject of the complaints described above, and observed that the appearance and odor of the water from those wells was similar to the appearance and odor of the water in the Ponds. The Bucks County Department of Health took samples from the wells in the course of these site visits. Those samples revealed the presence of a number of compounds, including levels of benzene that are above the MCL.
12. On July 30, 2010, the Department and the Bucks County Department of Health visited the Property and took samples of the Ponds and of the well located on the Property. Preliminary results indicate the presence of a number of compounds, including benzene and benzoic acid. The presence of benzoic acid indicates the likely presence of sodium benzoate in the Ponds.
13. Section 91.33 of Chapter 25 of the Department's regulations, 25 Pa. Code § 91.33, specifies measures to be taken when an incident causes or threatens pollution. The regulation provides that if, because of an accident or other activity or incident, a substance which would cause or threaten pollution is discharged, or threatened to be discharged, it is the responsibility of the person at the time in charge of the substance, or owning or in possession of the premises or facility from which the substance is discharged, to take certain measures. Section 91.33(b) provides that such a person shall immediately take or cause to be taken steps necessary to prevent injury to property and downstream users of the waters from pollution or a danger of pollution and, within 15 days from the incident, remove from the ground and from the affected waters of the Commonwealth the polluting substances. 25 Pa. Code § 91.33(b).

14. Section 316 of the Clean Streams Law, 35 P.S. § 691.316, states “Whenever the department finds that pollution or a danger of pollution is resulting from a condition which exists on land in the Commonwealth the department may order the landowner or occupier to correct the condition in a manner satisfactory to the department or it may order such owner or occupier to allow a mine operator or other person or agency of the Commonwealth access to the land to take such action. For the purpose of this section, "landowner" includes any person holding title to or having a proprietary interest in either surface or subsurface rights.”
15. The Department has determined that pollution, or a danger of pollution, of waters of the Commonwealth, is resulting from conditions which exist on the Property.
16. Rice, Cotton and Patridge, as owners of the Property, are “landowners” within the meaning of Section 316 of the Clean Streams Law, 35 P.S. § 691.316.
17. Custom Particle is a “land occupier” with regard to the Property within the meaning of Section 316 of the Clean Streams Law, 35 P.S. § 691.316.
18. The Department has determined that, as a result of the incident on the Property on June 29, 2010, substances were discharged which resulted and continue to result in pollution or the danger of pollution.
19. The Department has determined that at the time of the fire, Rice, Cotton and Patridge were in possession of the Property, and Custom Particle was in charge of the substances, the release of which resulted in pollution or the danger of pollution.
20. The Department has determined that it is necessary for Rice, Cotton, Patridge and Custom Particle to take steps to correct the conditions on the Property which are causing or threatening pollution.
21. The Department has determined that it is necessary for Rice, Cotton, Patridge and Custom Particle to take steps to prevent injury to property and downstream users of the waters from pollution or a danger of pollution and to remove from the ground and from the affected waters of the Commonwealth the polluting substances.
22. Rice, at the Department’s request, caused sampling to be conducted on August 2, 2010 of the Ponds and the well located on the Property.
22. Rice, at the Department’s request, is currently providing bottled water to five properties from which complaints were received of contaminated well water caused by the fire.

NOW THEREFORE, on this 5th day of August 2010, pursuant to Sections 5(b), 316, 604, and 610 of the Clean Streams Law, 35 P.S. §§ 691.604 and 691.610; 25 Pa. Code § 91.33(b) and Section 1917-A of the Administrative Code, 71 P.S. § 510-17, it is hereby **ORDERED** as follows:

- A. Within 24 hours of the receipt of the results of the sampling of the Ponds and the well on the Property that Rice caused to be collected on August 2, 2010, Rice, Cotton, Patridge and Custom Particle shall provide the Department with the results of the sampling.
- B. Rice, Cotton, Patridge and Custom Particle shall continue to provide bottled water to the five properties to which Rice is currently providing bottled water, and, upon notification from the Department, to any additional properties that show an impact attributable to the fire runoff, as determined by the Bucks County Department of Health.
- C. Within 20 days of the date of this Order, Rice, Cotton, Patridge and Custom Particle shall provide an alternate source of potable whole house water to the five properties to which Rice is currently providing bottled water, and, upon notification from the Department, to any additional properties that show an impact attributable to the fire runoff, as determined by the Bucks County Department of Health.
- D. Within 5 days of the date of this Order, Rice, Cotton, Patridge and Custom Particle shall begin to remove the water within the Ponds, by either sending the water to the public sewer system, if appropriate and with the system owners' permission, or by pumping and hauling the water to a Department approved disposal location. The removal shall be complete within 20 days of the date of this Order.
- E. Following removal of the water from the Ponds, Rice, Cotton, Patridge and Custom Particle shall take steps to prevent stormwater from entering the Ponds for the period necessary to remove or remediate any contamination in the soils or sediments lining the pond, as required in Paragraph F below.
- F. Within five days of the date of the Order, Rice, Cotton, Patridge and Custom Particle shall submit a plan for the removal or remediation of any contamination in the soils or sediments lining the pond, and any soil impacted by contaminated runoff, which plan shall include provisions for sampling the soil or sediment, and a schedule for any remediation or removal required as a result of the sampling. Upon approval of the plan by the Department, Rice, Cotton, Patridge and Custom Particle shall implement the plan in accordance with the schedule and provisions of the approved plan.
- G. Within three days of the date of this Order, Rice, Cotton, Patridge and Custom Particle shall provide the Department with a list of all materials that were in the building at the time of the fire, to the extent such a complete list has not already been provided; the MSDS sheets for those materials; and a description of the extent to which residual materials remained intact after the fire.

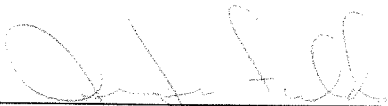
- H. Within three days of the date of this Order, Rice, Cotton, Patridge and Custom Particle shall provide DEP with a list of all companies located at the Property prior to the fire and a description of the nature of their operations.
- I. Within three days of the date of this Order, Custom Particle shall provide a list of any violations issued to Custom Particle by any local, state or federal regulatory authority within the last five years.
- J. Within 15 days of the date of this Order, Rice, Cotton, Patridge and Custom Particle shall contract with a professional geologist to perform a determination of the extent of groundwater contamination resulting from the fire fighting run off.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa. C.S. Chapter 5-A, to the Environmental Hearing Board, Second Floor, Market Street State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST REACH THE BOARD WITHIN 30 DAYS. YOU DO NOT NEED A LAWYER TO FILE AN APPEAL WITH THE BOARD.

IMPORTANT LEGAL RIGHTS ARE AT STAKE, HOWEVER, SO YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD (717-787-3483) FOR MORE INFORMATION.

**FOR THE COMMONWEALTH
OF PENNSYLVANIA DEPARTMENT
OF ENVIRONMENTAL PROTECTION**



Jenifer Fields, P.E.
Regional Manager
Water Management Program

EXHIBIT 1

Adipic Acid - FCC Kosher
Ammonium Persulfate
Ascorbic Acid - FCC/USP
Avicel (Microcrystalline Cellulose)
Bee Pollen
Calcium & Humus - Soil Born Organism
Calcium Citrate
Calcium Sterate
Clay
Dextrin
Diatomations Earth (Calcium Silicate)
Dimognesium Phosphate
DiPenta
Ester C
Flax
Fumed Silica (Silicon Dioxide)
Garlic
Gluosamine
Glycine
Hardwood Flour - Saw Dust
Kelp
Lactobaccillus
Lecithan
Liver Powder
Malic Acid Anhydrous / -FCC Kosher
Melamine
Milk Calcium Concentrate
Monosodium Citrate FCC/ USP
MSM
Pluronic F -108
Polyamide- Imide
Polypentabromobenzyl Acrylate
Polyphenylene Sulfide
Polypropylene
Potassium Sorbate- FCC/ USP
PPS
PTFE- Polytetrafluroethylene
Red Yeast Rice
Shark Cartlidge
Silicon Dioxide
Sodium Benzoate - FCC/ USP
Sodium Bicarbonate FCC/ USP
Sodium Nitrite- FCC/ USP

Spirulina
Talc
Triple Pressed Stearic Acid
Vitamin C
Yeast
Yellow Die Powder - Pigment
2- Propanol
Hydrogen Peroxide 35 %
Ketone / Alcohol Propane fuel
Compressor Oil
Heating oil
Gasoline