

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

## Office of the General Counsel

625 Broadway, 14th Floor, Albany, New York 12233-1500

P: (518) 402-9185 | F: (518) 402-9018

www.dec.ny.gov

May 14, 2021

## VIA ELECTRONIC MAIL

Robert Davis  
Plant Manager  
PVS Chemical Solutions, Inc.  
55 Elk Street  
Buffalo, New York 14210

Dear Robert Davis:

**TEMPORARY CEASE AND DESIST  
PVS Chemical Solutions, Inc.  
Air Title V Facility Permit  
9-1402-00435/00037**

The New York State Department of Environmental Conservation (“DEC”) hereby demands PVS Chemical Solutions, Inc. immediately cease and desist ongoing operations at its facility located at 55 Elk Street, in the City of Buffalo unless and until the facility is able to undertake operational modifications and/or production level reductions to operate in a manner that does not violate the Acute Exposure Guideline Levels (“AEGs”) for sulfur dioxide (“SO<sub>2</sub>”) and does not otherwise cause or contribute to air pollution related to SO<sub>2</sub> emissions that may cause a risk to human health.

As you are aware, DEC redeployed the ambient air monitoring station on March 31, 2021 adjacent to the PVS Chemical Solutions, Inc. facility which has detected numerous exceedances of the SO<sub>2</sub> National Ambient Air Quality Standard (“NAAQS”) primary standard. In addition, the New York State Department of Health (“DOH”) has reviewed the 2020 and 2021 ambient air monitoring data and detected numerous instances where the results exceeded the SO<sub>2</sub> AEGs set by the National Academy of Sciences, including instances when the AEGL-2 level was exceeded indicating the potential for more severe respiratory effects.

DOH’s review of the SO<sub>2</sub> monitoring data found exceedances of additional health-based air standards, including the 1-hour NAAQS and the Environmental Protection Agency’s thresholds of concern for triggering Air Quality Index warnings of unhealthy air. The number and duration of these unhealthy air episodes is of particular risk to exercising individuals and to other vulnerable groups including asthmatics. This indicates that symptoms of irritation, reduced lung function and respiratory distress can be expected for these and other individuals not in the vulnerable groups at the detected concentrations. This finding is consistent with the reported complaints received by DEC from those using the nearby athletic field.

Accordingly, due to the potential public health impacts associated with the SO<sub>2</sub> emissions, DOH has directed the cessation of activities at the Elk Street Athletic Facility, Buffalo Medaille Sports Complex until the potential public health risks caused by PVS Chemical Solutions, Inc. are fully addressed or abated.

Should PVS Chemical Solutions, Inc. fail to comply with this cease and desist demand, by immediately ceasing operations until it provides and implements a compliance plan that demonstrates, to DEC's satisfaction, PVS Chemical Solutions, Inc.'s ability to operate without exceeding the SO<sub>2</sub> AEGLs or otherwise causing or contributing to air pollution related to SO<sub>2</sub> emissions that may cause a risk to human health, the State of New York will pursue all other available enforcement options. Such options include, but are not limited to, a preliminary injunction brought by the New York State Attorney General's office or a summary abatement order filed pursuant to Environmental Conservation Law Section 71-0301 or an order for summary action pursuant to Public Health Law Section 16 for the immediate closure of the facility.

Please have your counsel contact the undersigned should you have any questions or wish to discuss this demand further.

Very truly yours,



Thomas Berkman  
Deputy Commissioner and  
General Counsel

cc: David Roach, Esq.  
J. Michael Lennon, Esq.  
Roach, Lennon & Brown, PLLC  
(via electronic mail)

ec: Basil Seggos, DEC Commissioner  
Sean Mahar, Chief of Staff  
J. Jared Snyder, Deputy Commissioner for Climate, Air and Energy  
Dr. Howard Zucker, DOH Commissioner  
Lisa Pino, DOH Executive Deputy Commissioner  
Kathy Marks, DOH General Counsel  
Michael G. Bass, Esq., DOH Deputy Counsel  
Lemuel Srolovic, Esq., NYS Attorney General's Office, Environmental Protection  
Bureau

Lisa Burianek, Esq., NYS Attorney General's Office, Deputy Bureau Chief,  
Environmental Protection Bureau  
Eric Schaaf, Esq., US Environmental Protection Agency  
Terri Mucha, Esq., DEC Associate Attorney