

**BEFORE THE STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

STATE OF ALASKA, DEPARTMENT)	
OF ENVIRONMENTAL CONSERVATION)	
)	
Complainant,)	AS 46.03.810
)	18 AAC 50.110
)	
)	
Versus)	
)	
)	
Mr. Andrew Straughn)	
)	
AND)	
)	
Mrs. Gloria Straughn)	
)	
<u>Respondents</u>)	
Enforcement Tracking # 10-0662-45-9240)	

**NUISANCE ABATEMENT ORDER
CORRECTED COPY**

PLEASE TAKE NOTE:

This Nuisance Abatement Order is issued under the authority of AS 46.03.810(a)(2). Failure to comply with this ORDER may result in civil and/or criminal sanctions.

FACTUAL BASIS:

The Alaska Department of Environmental Conservation (ADEC) has received public complaints of smoke caused by the hydronic boilers located at 58 Trinidad Drive and 5055 A and/or B Palo Verde Ave in Fairbanks, Alaska. The Department determined that the Respondents are the owners of the boilers and owners of the properties at those addresses.

Several citizens living, working or attending school near the boilers at such locations have complained about the poor air quality caused by the smoke from such boilers. These citizens identified the boilers located at 58 Trinidad Drive and 5055 A and/or B Palo Verde Ave in Fairbanks, Alaska as the source of unreasonable air pollution in the area.

ADEC's investigations have determined that the boilers located at 58 Trinidad Drive and 5055 A and/or B Palo Verde Ave, are the main sources of the poor air quality at the Woodriver School and the intersection of Trinidad Drive and Palo Verde Avenue.

ADEC finds that the manner in which these boilers have been operated creates a public nuisance within the meaning of AS 46.03.810(a)(2), and is obnoxious and/or offensive to the public. In

addition, ADEC finds that Respondents are operating those boilers in a manner that unreasonably interferes with the enjoyment of life or property as prohibited by 18 AAC 50.110.

Under the authority of AS 46.03.810, ADEC hereby orders Respondents to abate the nuisance.

ACCORDINGLY, THE RESPONDENTS ARE HEREBY ORDERED TO:

1. AVOID OPERATING THE BOILERS LOCATED AT 58 TRINIDAD DRIVE AND 5055 A and/or B PALO VERDE AVENUE IN A MANNER THAT CAUSES ITS EMISSIONS TO BE A NUISANCE TO HUMANS.
2. AVOID OPERATING THE BOILERS LOCATED AT 58 TRINIDAD DRIVE AND 5055 A and/or B PALO VERDE IN A MANNER THAT CAUSES
 - A) BLACK SMOKE; OR
 - B) VISIBLE EMISSIONS THAT EXCEED 50 PERCENT OPACITY FOR MORE THAN 15 MINUTES IN ANY ONE HOUR IN AN AREA FOR WHICH AN AIR QUALITY ADVISORY IS IN EFFECT UNDER 18 AAC 50.245.

AS 46.03.810(b) provides: "A person who neglects or refuses to abate the nuisance upon order of an officer of the Department of Environmental Conservation is guilty of a misdemeanor and is punishable as provided in AS 46.03.790. In addition to this punishment, the court shall assess damages against the defendant for the expenses of abating the nuisance."

A person convicted of a class A misdemeanor may be sentenced to pay a fine not exceeding \$10,000 and/or sentenced to a definite term of imprisonment of not more than one year. Each day of violation is considered a separate violation. Alaska laws allow the State to pursue both civil and criminal actions concurrently.

If you have any questions or concerns regarding this ORDER, or the consequences of your failure to comply with it, you may contact Moses Coss at the Department of Environmental Conservation, Air Permits Program, 610 University Avenue, Fairbanks, AK 99709-3643, phone (907) 451-2163; fax (907) 451 -2187.

Dated: March 10, 2011


Alice Edwards

Director
Division of Air Quality
Alaska Department of Environmental
Conservation

I certify that on March 10, 2011, I served this Order

by U.S. Certified Mail, Return Receipt Requested, to Andrew & Gloria Straughn, 5035 Palo Verde Avenue, Fairbanks, AK 99709

cc: Jim Baumgartner, ADEC/APP, Juneau
Moses Coss, ADEC/APP, Fairbanks