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May 26, 2016

Governor Kate Brown  
254 State Capitol  
Salem, OR 97301-4047

Dear Governor Brown:

**Recommendation:** Order DEQ to renew the cease and desist order that was issued to Bullseye Glass Co. by DEQ on May 19, 2016, at your direction.

**Timeline:** The current cease and desist order expires on Sunday May 29, 2016, but under ORS 468.115 DEQ can renew the cease and desist if you order it to do so. OHA and DEQ jointly recommend that before the previous order expires you order DEQ to renew the cease and desist order issued to Bullseye Glass.

**Discussion:** The risks we previously described to you in the memo dated May 19, 2016 from OHA and DEQ remain present. While the air monitoring data collected since May 9-10, 2016 do not show lead levels above the 24-hour safety standard, the company's actions have demonstrated that they are capable of burning high quantities of metals in uncontrolled furnaces that would produce emissions exceeding short-term health and safety standards. The cease and desist order remains the best option for ensuring the continued protection of children attending a day care center located nearby and any other persons in the vicinity of the facility. Air quality monitors at the day care center detected dangerous concentrations of lead on May 9, 2016 and May 10, 2016. The air monitors detected 416 nanograms per cubic meter of lead on May 9<sup>th</sup> and 669 nanograms per cubic meter on May 10<sup>th</sup>. The current national ambient air quality standard for lead is 150 nanograms per cubic meter.

While in public statements about this matter, Bullseye suggested that the dangerous levels of lead detected at the day care center originated from a different source, DEQ's emission-control experts correlated lead readings taken on May 9-10 with production records from Bullseye that indicate the company processed significant quantities of lead.

DEQ is confident Bullseye is the source of the emissions. Such claims by the company continue to indicate a lack of recognition of the impacts that its operations have to the surrounding community. The air monitoring data indicate a pattern of unpredictable emissions of toxic metals at potentially unsafe levels.

We are engaged in discussions with Bullseye with the aim of securing an agreement that would lead to a more permanent solution to the air quality problems stemming from Bullseye's operations. It is our hope that such an agreement would obviate the need for a cease and desist order. *However, until such an agreement is reached we believe it is crucial that a cease and desist order remain in effect and we intend to continue to request that you order DEQ to renew the cease and desist order as many times as is necessary to best protect the public's health.*

Neither the terms of DEQ's first order, nor a renewed order prevent *all* business operations at the company's facility. Bullseye can conduct its operations as long as it uses a furnace equipped with pollution controls sufficient to limit the volume of emissions to levels that do not exceed our 24-hour standards for lead and other substances of potential concern as identified in the current cease and desist order.

The recommended form of order is identical to the previous order issued by you to DEQ with one additional term. The added term reflects the fact that Bullseye may agree to the terms that we require of it sometime during the period in which the new cease and desist order is in effect. The added term is set forth in full below for your convenience:

"Early withdrawal of the order. If DEQ and OHA concur that any cease and desist order then in effect be rescinded because other legally enforceable requirements are in place to adequately protect the public health, then DEQ shall promptly issue an order rescinding the cease and desist order then in effect."

Again, we ask you that you order DEQ to renew the cease and desist order against Bullseye requiring it to cease and desist using lead, arsenic, cadmium, all chromium compounds, cobalt, manganese, nickel and selenium in any uncontrolled furnace for an additional 10 days, through June 8, 2016.



Lynne Saxton  
Director  
Oregon Health Authority



Pete Shepherd  
Interim Director  
Oregon Department of Environmental Quality