

Memo

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To: James D. Kalb, Mayor
From: David W. Kuhn, City Solicitor
CC: City Council
Sam Sutherland, Director of Public Utilities - Filtration
Date: February 27, 2007
Re: State of Ohio, ex rel. Marc Dann, Attorney General of Ohio v.
New Boston Coke – Case No. 99-CIG-003

The allegations in the attached Answer of State of Ohio should be addressed. Please advise me of what steps the City has taken with respect to environmental investigations and plans for any necessary remediation in as to the 2.18 acres.

IN THE COURT OF COMMON PLEAS
SCIOTO COUNTY, OHIO

STATE OF OHIO, ex rel.	:	
MARC DANN	:	CASE NO. 99-CIG-003
ATTORNEY GENERAL OF OHIO	:	
	:	JUDGE Howard H. Harcha III
Plaintiff,	:	
	:	
v.	:	
	:	
NEW BOSTON COKE CORP., et al.	:	
	:	
Defendants.	:	

**ANSWER OF STATE OF OHIO TO AMENDED PETITION FOR SALE OF
REAL ESTATE TO CITY OF PORTSMOUTH**

The State of Ohio, ex rel. Marc Dann, Attorney General of Ohio ("State"), for its Answer to the Amended Petition for Sale of Real Estate to the City of Portsmouth states the following:

1. The State admits the allegations in paragraph 1.
2. The State admits the allegations in paragraph 2.
3. The State admits the allegations in paragraph 3.
4. The property is subject to this Court's order to undertake certain investigations and corrective actions with respect to environmental hazards, including on the 2.18 acres of real property that is the subject of the Amended Petition. Thus, the State does not admit or deny that the allegations in this paragraph are necessarily true. The 2.18 acres of real property may contain contamination that needs to be investigated and remediated.
5. The State admits the allegations in paragraph 5.

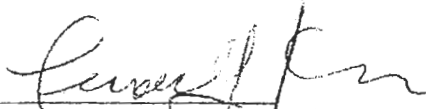
6. Representatives of the City of Portsmouth have had discussions with certain Ohio EPA employees regarding the necessary environmental investigations to be conducted on the 2.18 acres of real estate. However, the State does not know if the City of Portsmouth will conduct the necessary investigations and any required remediation. Thus, the State does not admit or deny that the allegations in this paragraph are necessarily true.

7. The State admits the allegations in paragraph 7.

8. through 21. The allegations set forth in paragraphs 8 through 21 concern facts that the Receiver has determined or should determine to be true as part of his duties under the March 2005 receivership order. Therefore, the State does not have specific knowledge as to the truth of these allegations and neither admits nor denies these allegations.

Respectfully submitted,

**MARC DANN
ATTORNEY GENERAL OF OHIO**



Timothy J. Kern (0034629)

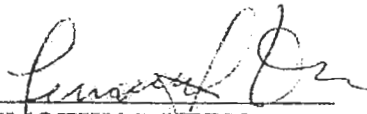
Dale T. Vitale (0021754)

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **Answer of State of Ohio to Amended
Petition for Sale of real Estate to City Of Portsmouth** was served by regular U.S. mail
on this 15th day of February, 2007 upon:

Joseph D. Kirby
Receiver, New Boston Coke Corp.
227 East Main Street
P.O. Box 573
Jackson, Ohio 45640



TIMOTHY J. KERN
Assistant Attorney General