UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
AIR AND RADIATION DIVISION
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 14 2000 (AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Darrell Marx, Owner
Darrell's Shell
27831 Orchard Lake Road
Farmington Hills, Michigan 48334

Re: Notice of Intent to File Civil Administrative Complaint Against Darrell's Shell and Opportunity to Show Cause

Dear Mr. Marx:

Based on information gathered by the United States Environmental Protection Agency (EPA), we plan to file an administrative complaint for civil penalties against Darrell's Shell (you). We will allege that you violated Section 609 of the Clean Air Act, 42 U.S.C. § 7671h, and the regulations promulgated at 40 C.F.R. Part 82, Subpart B. Specifically, we will allege that you have repaired or serviced motor vehicles for consideration and that you have violated 40 C.F.R. § 82.34(a)(2) by using uncertified technicians to perform service or repair on motor vehicle air conditioners (MVACs) involving refrigerant. Based on information currently available to us, we plan to propose a penalty of $22,000 in the complaint. This penalty includes $5,000 for the size of violator, based on our estimate that you have a net worth or net assets between $1,000,001 - $5,000,000.

This letter is not a demand to pay a penalty. We will not ask you to pay a penalty until we file the complaint or a final order. Before filing the complaint, we are giving you the opportunity to present any information that you believe we should consider. You may present information and supporting documentation both to show cause why EPA should not institute administrative proceedings to assess civil penalties, and to show cause why the proposed penalty should be reduced. Relevant information might include evidence that you did

not violate the law; evidence that you relied on compliance assistance from EPA or a State agency; evidence that we identified the wrong party; or financial data bearing on the size of your company or your ability to pay a penalty.

If you believe that you will be unable to pay a $22,000 penalty because of financial reasons, please give us the following supporting documentation: certified financial statements, including balance sheets, for the past three years; and your company's income tax returns, with all schedules, for the past three years.

You may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information you submit to us. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If you fail to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Please see the enclosure titled "Confidential Business Information" if you wish to assert a claim of business confidentiality.

We may use any information you submit in support of an administrative, civil, or criminal action.

Within 10 calendar days after you receive this letter, please send any response to:

Alan Walts
Assistant Regional Counsel (C-14J)
United States Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

We intend to file the complaint against you 14 calendar days after you receive this letter, unless you give us information that the complaint is not substantially justified.

If you have any questions, please call Alan Walts, Assistant Regional Counsel at (312) 353-8894.

Thank you for your prompt attention to this matter.

Sincerely,

Bharat Mathur, Director
Air and Radiation Division

Enclosures (CBI Instructions and Small Business Fact Sheet)

CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information confidential that the U.S. Environmental Protection Agency (EPA or Agency) is requesting. You can not withhold information or records upon that basis. The Regulations at 40 C.F.R. Part 2, Section 200 et seq require EPA to give you the opportunity to substantiate your claim of confidentiality before we make a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. [See 41 Federal Register 36902 et seq. (September 1, 1976); 43 Federal Register 4000 et seq. (December 18, 1985).] If no such claim accompanies the information when EPA receives it, the information may be made available to the public by the Agency without further notice to you.

If you wish the U.S. EPA to treat the information or record as "confidential", you must advise the U.S. EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph and sentence. You must make a **separate** assertion of confidentiality for **each response** and **each document** that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope "confidential", and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, e.g., until a specific date or until the occurrence of a specific event;

2. The measures that you have taken to guard against disclosure of the information to others;

3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;

4. Whether EPA or another federal agency has made a pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination.

5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your

competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information.

6. If you assert that the information is voluntarily submitted as defined by 40 C.F.R. 2.201(i), explain how the disclosure would tend to lessen the ability of the U.S. EPA to obtain similar information in the future.

7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. 2.208(e), **the burden of substantiating confidentiality rests with you**. EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that EPA may maintain their confidentiality pursuant to 40 C.F.R. 2.205(c). If you do not identify this information and documents as "confidential", your comments will be available to the public without further notice to you.