



Mike DeWine, Governor  
Jon Husted, Lt. Governor  
Laurie A. Stevenson, Director

May 22, 2019

**CERTIFIED MAIL**

Ms. Diana Jones  
Miller-Mason Paving Co.  
8591 Mad River Road  
Hillsboro, Ohio 45133

Re: Final Findings and Orders for air pollution  
violations

Dear Ms. Jones,

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,

A handwritten signature in black ink, appearing to read "James Kavalec", written over a horizontal line.

James Kavalec, Manager  
Compliance/Enforcement Section  
Division of Air Pollution Control

ec: Patty Porter, DAPC  
Brandon Schwendeman, DAPC  
John Paulian, DAPC  
Cindy Charles, Portsmouth  
Steve Feldmann, Legal Office  
Lee Tullis, DAPC

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Miller-Mason Paving Co.  
8591 Mad River Road  
Hillsboro, Ohio 45133

Director's Final Findings  
and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Miller-Mason Paving Co. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the facilities (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a facility located on 8591 Mad River Road, in Hillsboro, Highland County, Ohio. This facility is an asphaltic concrete plant and it is identified by Ohio EPA facility ID 0736020113. Emission unit ("EU") P902 (125 ton per hour asphaltic concrete batch plant) is the subject of these Orders and it is subject to Ohio EPA rules and regulations.

2. Portsmouth Local Air Agency ("Portsmouth") is the contractual agent for Ohio EPA on air quality matters within Highland County.

I certify this to be a true and accurate copy of the  
official documents as filed in the records of the Ohio  
Environmental Protection Agency.

By Sam Wilson Date: 5/22/19

3. ORC § 3704.05(C) prohibits any person who is a holder of a permit issued by the Director of Ohio EPA pursuant to ORC § 3704.03 from violating any of its terms and conditions.

4. EU P902 was installed on April 1, 1999. Permit-to-install and operate ("PTIO") P0115002, for EU P902, was issued on July 11, 2013.

5. The Standard of Performance for Hot Mix Asphalt Facilities (40 CFR Part 60, Subpart I) requires, in part, that particulate emissions ("PE") from EU P902 at the facility not exceed 0.04 gr/dscf and opacity not to exceed 20%. The requirements of 40 CFR Part 60, Subpart I, are incorporated as applicable requirements in the FEPTIO for EU P902.

6. The PTIO required Respondent, in part, to conduct emission testing within one year prior to the expiration of the PTIO to demonstrate compliance with the allowable mass emission rate for PE from EU P902.

7. Respondent completed the performance test for the emissions rate of PE from EU P902 on November 8, 2018.

8. Portsmouth received the results of the test on December 12, 2018 and the average PE mass emission rate from EU P902 was 0.056 gr/dscf which exceeds the limit of 0.04 gr/dscf, in violation of 40 CFR Part 60, Subpart I, the terms and conditions of PTIO P0115002 and ORC § 3704.05(C).

9. On January 22, 2019, Portsmouth sent a notice of violation ("NOV") letter to Respondent for the violations listed above and requested Respondent to submit a compliance plan and schedule.

10. On February 1, 2019, Portsmouth received Respondent's reply to the NOV of January 22, 2019. It was stated that the facility has been shutdown since the end of November. It was also stated that Respondent is in the process of purchasing a new baghouse and bags for EU P902 to be installed in the Spring of 2019.

11. The Director has given consideration to, and based her determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

## **V. ORDERS**

The Director hereby issues the following Orders:

1. Not later than July 1, 2019, Respondent shall complete the installation and operation of the new baghouse for EU P902. Respondent shall inform Ohio EPA and Portsmouth of the date the installation has been completed in writing by e-mail or in accordance of Section X in these Orders.

2. Not later than July 1, 2019 but after the new baghouse for EU902 becomes operational, Respondent shall conduct performance tests for EU P902 while the EU is operating at or near its maximum capacity, unless otherwise specified or approved by the Ohio EPA, to demonstrate compliance with 40 CFR Part 60, Subpart I, using the following test methods:

Opacity, Method 9 of 40 CFR Part 60, Appendix A

PE, Methods 1-5 of 40 CFR Part 60, Appendix A

3. No later than 30 days prior to the proposed test date(s), Respondent shall submit an "Intent to Test" notification to Ohio EPA. The "Intent to Test" notification shall describe in detail the proposed test methods and procedures, the EU operating parameters, the time(s) and date(s) of the test(s), and the person(s) who will be conducting the test(s).

4. Within thirty (30) days of receipt of the stack test results for EU P902, Respondent shall submit a comprehensive written report on the results of the emissions test(s) which shall be signed by the person or persons responsible for the tests to Ohio EPA. If the stack test shows failing results, Respondent shall, within thirty (30) days of submittal of the test report, submit a detailed compliance plan to Ohio EPA which addresses the violation(s).

5. Respondent shall pay the amount of nine thousand dollars (\$9,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for nine thousand dollars (\$9,000). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders, these obligations have been embedded in operation permits where appropriate, and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-77-01 (JJ) and for a corporation it is a corporate officer who is in charge of a principal business function of Respondent.

## **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, operations by Respondent.

## **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

## **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

## **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Portsmouth Local Air Agency  
605 Washington Street, Third Floor  
Portsmouth, Ohio 45662  
Attention: Cindy Charles

and:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attention: Jim Kavalec

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

## **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

## **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein and all violations of ORC Chapter 3704 known to Ohio EPA or CDAQ up through the effective date of these Orders.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders

notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

**XIII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**



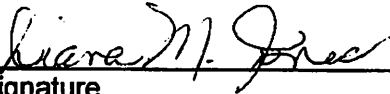
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Laurie A. Stevenson  
Director

5/21/19

\_\_\_\_\_  
Date

**AGREED:**

**Miller-Mason Paving Co.**



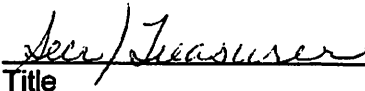
\_\_\_\_\_  
Signature

5.20.19

\_\_\_\_\_  
Date

Diana M Jones

\_\_\_\_\_  
Printed or Typed Name



\_\_\_\_\_  
Title