

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

**STONECO, Inc.  
1345 Ford Street  
Maumee, Ohio 43537**

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:  
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**Director's Final Findings  
and Orders**

ENTERED DIRECTOR'S JOURNAL

DEC 31 2002

OHIO E.P.A.

**PREAMBLE**

It is hereby agreed that:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to STONECO, Inc. ("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 relating to emissions unit P906 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 meanings as used in R.C. Chapter 3704 and the regulations promulgated thereunder.

**IV. FINDINGS OF FACT**

All of the findings necessary for the issuance of these Orders pursuant to ORC §§3704.03 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact.

The Director of the Ohio EPA has determined the following findings of fact:

1. Respondent operates an asphalt production business headquartered in Maumee, Ohio.

2. Respondent owns a portable asphalt plant ("P906") operated under permit-to-install ("PTI") number 04-974. PTI 04-974 was issued on October 25, 1995 and is administered by the City of Toledo, Division of Environmental Services ("TDES"), a local air agency operating under contract to Ohio EPA.
3. PTI 04-974 restricts sulfur dioxide emissions from P906 to no more than 17 lbs/hour and requires a performance test for P906 to demonstrate compliance with the sulfur dioxide emission limitation.
4. On May 4, 1995, Respondent submitted a permit-to-operate ("PTO") application for P906. Ohio EPA has not acted upon this application.
5. On July 1, 1997, Respondent conducted a performance test for P906 and found sulfur dioxide emissions were 7.95 lbs/hour.
6. On June 4, 1999, Respondent notified Ohio EPA that it intended to move P906 to the National Lime and Stone quarry in Delaware, Ohio. Respondent moved the unit on July 5, 1999.
7. On January 17, 2000, Respondent submitted a PTO application for P906 at the location in Delaware.
8. On August 11, 2000, Respondent conducted a performance test on P906 to determine the sulfur dioxide emission rate.
9. In correspondence dated September 11, 2000, Respondent notified TDES that results from the August 11, 2000 performance test on P906 indicated a sulfur dioxide emission rate of 31.57 lbs/hour.
10. In a Notice of Violation from TDES dated September 22, 2000, Respondent was notified the sulfur dioxide emission rate from P906 exceeded the rate allowable in the PTI and was a violation of ORC section 3704.05.
11. In correspondence dated October 5, 2000, Respondent notified TDES that a retest of the sulfur dioxide emission rate from P906 was scheduled for November 1, 2000.
12. On November 1, 2000, Respondent conducted a second performance test on P906 to determine the sulfur dioxide emission rate.
13. In correspondence dated November 28, 2000, Respondent notified TDES that results from the November 1, 2000 performance test of P906 indicated a sulfur

dioxide emission rate of 25.55 lbs/hour.

14. In correspondence dated December 1, 2000, Respondent requested a PTI modification to increase the sulfur dioxide emission limitation for P906 from 17 lbs/hour to 38 lbs/hour. Respondent did not submit a "best available technology" ("BAT") study with the permit modification request. Respondent also failed to submit a compliance plan and schedule pursuant to OAC rule 3745-35-02(C)(1).
15. In a Director's warning letter dated June 22, 2001, Ohio EPA gave Respondent three alternatives to remedy the sulfur dioxide emission violations from P906. The first alternative was to cease operating P906. The second alternative was to submit a plan and schedule to install control equipment on P906 to keep sulfur dioxide emissions within the PTI emission limitation. The third alternative was to submit a PTI modification request to increase the sulfur dioxide emission limitation. If Respondent chose the third alternative, it would also be required to submit a Best Available Technology ("BAT") study.
16. In correspondence dated August 28, 2001, Respondent submitted a PTI application to increase the sulfur dioxide emission limitation for P906 to 38 lbs/hr. Respondent also submitted a BAT study that showed the cost of installing a dry hydrated lime injection system on P906 to control sulfur dioxide emissions was \$1,913 per ton of sulfur dioxide reduced.
17. Ohio EPA and Respondent met on February 7, 2002 to discuss the PTI emission rate violations and the BAT issue. Based on information Respondent provided and research Ohio EPA conducted, it was determined that the lime injection system is not BAT to control sulfur dioxide emissions.
18. During a conference call held on April 15, 2002, Respondent notified Ohio EPA that it intended to move P906 to a new site on or about June 1, 2002.
19. Respondent conducted a performance test at the new site on July 19, 2002. The results of the test indicated an average SO<sub>2</sub> emission rate of 2.03 lbs/hr.
20. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

## V. ORDERS

The Director hereby issues the following Orders:

1. Pursuant to ORC § 3704.06, Respondent is assessed a civil penalty in the amount of twenty thousand two hundred and fifty dollars (\$20,250) in settlement of Ohio EPA's claims for civil penalties. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of sixteen thousand two hundred dollars (\$16,200). Payment shall be made by an official check made payable to "Treasurer, State of Ohio." The official check shall be submitted together with a letter identifying the Respondent and the Facility to the following:

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

A copy of the check shall be sent to James A. Orlemann, Manager, Engineering Section, or his successor, at the following address:

Division of Air Pollution Control  
Ohio Environmental Protection Agency  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049

The remaining four thousand and fifty dollars (\$4,050) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, Respondent shall deliver an official check in this amount and made payable to the Ohio Department of Natural Resources, Division of Forestry, State Forest Fund for the purpose of funding urban tree-planting projects in Ohio. This check shall specify that such monies are to be deposited into Fund No. 509. The check shall be sent to John Dorka, Deputy Chief, or his successor, at the following address:

Division of Forestry  
Ohio Department of Natural Resources  
1855 Fountain Square Court, H-1  
Columbus, Ohio 43224-1327

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V. of these Orders.

## **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, the operation of Respondent's emissions unit P906.

## **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. 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:

Karen Granata  
City of Toledo  
Division of Environmental Services  
348 South Erie Street  
Toledo, Ohio 43602

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Tammy Van Walsen

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.

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**

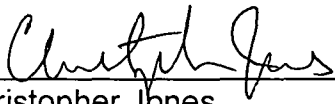
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

#### **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.

**IT IS SO ORDERED AND AGREED:**

Ohio Environmental Protection Agency

  
\_\_\_\_\_  
Christopher Jones  
Director

12-30-07  
Date

**IT IS SO AGREED:**

STONECO, Inc.

  
\_\_\_\_\_  
Signature

December 18, 2002  
Date

Jack Zouhary  
Printed or Typed Name

Senior Vice President and General Counsel  
Title