



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

December 18, 2015

CERTIFIED MAIL

Christopher Beeman
Treasurer
The Lash Asphalt Materials Company
551 Lash Asphalt Materials
Findlay, OH 45840

Re: Final Findings and Orders for violations of
air pollution regulations located on County
Road 7F in Toronto, Ohio.

Dear Mr. Beeman:

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 blue ink, appearing to read "James Kavalec", is written over a blue vertical line that extends from the word "Sincerely,".

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

xc: James Lee, PIC
Stephan Feldmann, Legal Office
Muhammad Mereb, DAPC

OHIO E.P.A.
DEC 18 2015

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

The Lash Asphalt Materials Company :
Plant #2 :
County Road 7F :
Toronto, Ohio 43964 :

**Director's Final Findings
and Orders**

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.

PREAMBLE

It is agreed by the parties hereto as follows:

By:  Date: 12-18-2015

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to The Lash Asphalt Materials Company ("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 facility (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, Plant #2, located on County Road 7F (one mile south of Empire Road), in Toronto, Jefferson County, Ohio. This facility is a portable hot mix asphalt plant and it is identified by Ohio EPA facility ID 0607000187. Emission unit P903 (110 ton per hour portable drum hot mix asphalt plant) at Plant #2 is the subject of these Orders and it is subject to Ohio EPA rules and regulations.

2. 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.

3. ORC 3704.05(G) prohibits a person from violating any order, rule, or determination of the Director that was issued, adopted, or made under ORC Chapter 3704.

4. Permit-to-install and operate ("PTIO") P0116614, issued on April 14, 2014, required Respondent, in part, to conduct emission testing within 120 days from the PTIO issuance date to demonstrate compliance with the allowable mass emission rate for the following pollutants from emissions unit P903: particulate emissions ("PE"), carbon monoxide ("CO"), volatile organic compounds ("VOC"), sulfur dioxide ("SO₂"), and nitrogen oxides ("NO_x").

5. The Standards of Performance for New Stationary Sources for Hot Mix Asphalt Facilities (40 CFR Part 60, Subpart I) require, in part, that PE mass emission rate from the facility not to exceed 0.04 gr/dscf. The requirements of 40 CFR Part 60, Subpart I are incorporated as applicable requirements in the PTIO permit.

6. Respondent conducted the emission testing on July 17, 2014. The following table shows the test results and the allowable mass emission rate for each pollutant:

Pollutant	Allowable	Test Result	Exceedance
PE	0.040 gr/dscf	0.106 gr/dscf	0.066 gr/dscf
CO	0.04 lb/ton	0.13 lb/ton	0.09 lb/ton
VOC	0.126 lb/ton	0.216 lb/ton	0.09 lb/ton
SO ₂	0.066 lb/ton	0.008 lb/ton	NA
NO _x	0.055 lb/ton	0.020 lb/ton	NA

7. In violation of the terms and conditions of PTIO P0116614 and ORC § 3704.05(C), Respondent exceeded the allowable mass emission rate for PE, CO and VOC from emissions unit P903.

8. In violation of 40 CFR Part 60, Subpart I, Respondent exceeded the allowable mass emission rate for PE from emissions unit P903.

9. On March 13, 2015, Ohio EPA Southeast District Office ("SEDO") 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. Respondent's response to the NOV was received on April 17, 2015. Respondent stated that it implemented corrections at the facility to address the excessive PE mass emission rate and it requested higher mass emissions rates for CO and VOC.

11. On May 22, 2015, SEDO responded to Respondent's compliance plan and accepted Respondent's justification to raise the mass emissions rates for CO and VOC. SEDO also requested Respondent to re-test for PE mass emission rate. Respondent completed the scrubber repairs on June 18, 2015 and the test was completed on July 28, 2015. The stack test results report was received by SEDO on August 14, 2015 with a passing PE flow emission rate of 0.02 gr/dscf.

12. 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 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. Respondent shall pay the amount of twenty thousand dollars (\$20,000) 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 sixteen thousand dollars (\$16,000) of the total amount (split to Funds 6960 and 6A10). 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

2. In lieu of paying the remaining four thousand dollars (\$4,000) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$4,000 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$4,000. The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying Respondent and Fund 5CD0, to the above-stated address.

3. Should Respondent fail to fund the SEP within the required time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$4,000 of the civil penalty in accordance with the procedures in Order 1.

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, 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:

Ohio EPA
Southeast District Office
2195 Front Street
Logan, Ohio 43138
Attention: Melisa Witherspoon

and to:

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.

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



Craig W. Butler
Director

12/17/15

Date

AGREED:

The Lash Asphalt Company



Signature

12-4-15

Date

Christopher W Beaman

Printed or Typed Name

Treasurer

Title