

MAR 19 2010

ENTERED DIRECTOR'S JOURNAL

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BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Carneuse Lime, Inc.
P. O. Box 708
1967 West County Road #42
Bettsville, Ohio 44815

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:

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 Carneuse Lime, 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 of the 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 has determined the following findings:

1. Respondent owns and operates a lime manufacturing plant ("facility") located in Liberty Township, Seneca County, Ohio. The Respondent's office is located at 1967 West County Road #42, Bettsville, Seneca County, Ohio. The facility's identification number is 03-74-00-0010. Respondent also owns the limestone quarry located nearby.

2 Respondent operates the following emissions units at its facility as part of the lime production process:

- paved and unpaved roadways and parking areas (F001);
- material storage piles (F002);
- limestone material handling (F003);
- product handling #1/lime material handling (P001);
- product handling #2/lime material handling (P002);
- rotary kiln #12 (P003);
- rotary kiln #13 (P004);
- solid fuel (coal and coke) handling (P901);
- common product handling (P902);
- two product storage/loadouts (P903) and (P904); and
- kiln dust handling operations (P905).

3. These emissions units are "air contaminant sources," as defined in OAC Rule 3745-15-01(C) and (X).

4. On May 23, 2002, Ohio EPA issued PTI #03-13527 to Respondent. The PTI established monitoring, record-keeping and reporting requirements and best available control technology ("BACT") for each emissions unit. A baghouse was determined as BACT for each of emissions units P003 and P004. In addition, the PTI required Respondent to do the following: (a) conduct stack testing on emissions units P003 and P004 within ninety (90) days of the PTI issuance to show compliance with the emission limits; and (b) certify the continuous opacity monitoring system ("COMS") within one hundred eighty (180) days of the issuance of the PTI and, thereafter, continuously monitor opacity from the kilns with the COMS. Prior to PTI issuance, the facility had been in operation for several months and the only requirements were State Implementation Plan ("SIP") limits.

5. ORC § 3704.05(C) prohibits any person from violating the terms and conditions of any permit issued by the Director of Ohio EPA. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA.

6. On October 14, 2003, Ohio EPA issued Respondent a final modification for PTI #03-13527. The modified PTI increased the emissions limitations for emissions units P003 and P004 from 661.4 pounds of sulfur dioxide ("SO₂") per hour and 1,083.4 pounds of nitrogen oxides ("NO_x") per hour to 1,102 pounds of SO₂ per hour and 1,234.9 pounds of NO_x per hour, respectively. The PTI also required Respondent to conduct emission tests for emissions units P003 and P004 within ninety (90) days (i.e., by January 12, 2004).

7. On January 7 and 8, 2004, Respondent conducted stack tests for emissions units P003 and P004 for particulate emissions ("PE"). The tests indicated that the pounds of PE per hour ("lbs/hr") and grain of PE per dry standard cubic foot ("gr/dscf") limits for

each emissions unit were being exceeded, in violation of ORC § 3704.05(C) and (J)(2) and PTI 03-13527 as follows:

P003: Actual = 72.2 lbs/hr; 0.123 gr/dscf (Allowed: 14.23 lbs/hr; 0.021 gr/dscf).
P004: Actual = 72.2 lbs/hr; 0.123 gr/dscf (Allowed: 14.23 lbs/hr; 0.021 gr/dscf).

(Emissions units P003 and P004 vent through a common stack. For the stack test results, the actual emissions from each emissions unit were assumed to be equal.)

8. The facility is also subject to the Title V permitting rules. Accordingly, on January 29, 2004, Ohio EPA issued a Title V permit to Respondent. The Title V permit included the emission limitations contained in modified PTI #P0104549.

9. In a letter dated April 6, 2004, in response to a March 5, 2004 NOV, Respondent stated it would be in compliance with the PE limitations for emissions units P003 and P004 beginning April 11, 2004, and would conduct testing for PE about 30 days thereafter.

10. On numerous occasions after the PTI and Title V permit issuance, Respondent exceeded its VE limits, and failed to comply with record-keeping, monitoring and permitting requirements, in violation of its PTI and Title V permits. Table I (attached) identifies these and the other violations which include the following:

- visible emissions of fugitive dust observed from emissions units P001 P002 and P905;
- burning of coal with sulfur content higher than the limit for emissions units P003 and P004;
- failure to perform daily inspections and maintain daily and quarterly records for emissions units F001, F002 and F003; and
- late COMS certification for emissions units P003 and P004.

11. On June 17, 2004, Respondent conducted additional stack tests for emissions units P003 and P004 for PE and PM10. The test results revealed that the actual emissions from each of the emissions units P003 and P004 for PE were 10.3 lbs/hr and 0.019 gr/dscf, which were below the limits of 14.23 lbs/hr and 0.021 gr/dscf, respectively.

12. After passing the June 17, 2004 stack retests, Respondent cut production of emissions unit P004 by 20%, and between December 2003 and September 2005 it replaced over 10,800 bags to ensure compliance with its permit.

13. On March 17, 2005, Ohio EPA's Northwest District Office ("NWDO") specifically requested to observe visible emissions from emissions unit F002 due to a complaint associated with the Respondent's practice of pushing lime kiln dust over the

edge of the quarry rim into the quarry. Respondent agreed to allow NWDO to observe this practice on May 5, 2005. On May 4, 2005, Respondent informed NWDO that it inadvertently pushed the lime kiln dust ("LKD") at the quarry rim into the quarry on the night of May 3, 2005 and that it would immediately discontinue the practice of pushing LKD over the quarry rim.

14. On February 23, 2006, the COMS ceased functioning properly and was replaced with an uncertified spare COMS the same day. The Title V permit issued on January 29, 2004, required that Respondent use only a certified COMS at all times. Respondent's failure to replace the disabled COMS with a certified COMS constituted a violation of ORC § 3704.05(C) and (J)(2), PTI 03-13527, and the Title V permit. The replacement COMS was certified on April 20, 2006.

15. Respondent installed/modified and operated numerous unpermitted storage piles without applying for and obtaining PTIs and/or permits to operate ("PTOs"), in violation of OAC Rule 3745-31-02(A) and OAC Rule 3745-77-02. Respondent failed to employ the use of BAT for fugitive dust control, in violation of its permits. NWDO sent a notice of violation ("NOV") letter to Respondent on September 9, 2005 for these violations and requested the Respondent submit a PTI application. NWDO sent additional NOVs to Respondent regarding these violations on January 13, 2006, May 24, 2007, and June 24, 2007.

Only the following piles were identified and permitted in Prevention of Significant Deterioration ("PSD") PTI #03-13527:

- a. limestone storage pile P-112 (in quarry);
- b. limestone storage pile P-115 (in quarry);
- c. temporary coal pile (only present while awaiting transfer to internal silo);
- d. temporary coke pile (only present while awaiting transfer to internal silo); and
- e. 0.5 acre LKD pile.

The following additional piles existed, were not included in the PSD application and, as such, were unpermitted:

- a. cooling tower lime dust drop pile (North of Kilns);
- b. cooling tower lime dust drop pile (South of Kilns);
- c. small limestone pile #1 (North);
- d. small limestone pile #2 (South);
- e. kiln lime cleanout chute w/hopper (North);
- f. kiln lime cleanout chute w/ hopper (South);
- g. temporary lime kiln dust pile south of pug mill (used only when trucks are not available);
- h. housekeeping dust pile (under truck loadout support structure); and
- i. sawdust pile.

Respondent submitted PTI application #P0104550 to correct these deficiencies on February 26, 2009. Respondent indicated the following existing/permitted piles had been modified in this permit application:

- a. coal pile (no longer temporary);
- b. coke pile (no longer temporary); and
- c. active LKD pile (in quarry).

16. Revisions to the application were submitted on May 6, 2009, however, the application has been determined to be technically incomplete.

17. Respondent's PSD application for the kiln dust handling system (emissions unit P905) indicated emissions would be controlled through the use of two baghouses. Emission limits for the baghouses were established by incorporating an outlet grain loading concentration and the respective baghouses air flow rates. Prior to the issuance of the final PTI, Respondent installed an additional baghouse which constitutes a modification. Failure to apply for and obtain a modification to the PTI and/or Title V permit are violations of OAC Rule 3745-31-02(A) and/or OAC Rule 3745-77-02. NWDO sent an NOV to Respondent on January 13, 2006 for these violations and requested the Respondent to submit a revised PTI application. NWDO sent additional NOVs to Respondent regarding these violations on September 9, 2005, January 13, 2006, May 24, 2007, and June 24, 2007. Respondent has failed to provide the aforementioned items to NWDO.

18. On November 6, 2008, Director Korleski issued Respondent authorization for a six-month test burn of sawdust as an alternative or supplemental fuel in the kiln at Respondent's Maple Grove facility. Respondent conducted its test burn on November 14, 2008, and ended the burn six months later. The authorization required Respondent to submit a determination of whether burning sawdust constituted a "modification" or "major modification" as defined in OAC Rule 3745-31-01(QQQ) and (JJJ), respectively.

19. Ohio EPA issued Respondent an NOV for failure to submit the requested sawdust test burn determination on May 12, 2009. On May 26, 2009, Respondent filed the requested sawdust test burn determination demonstrating that burning sawdust does not constitute a "major modification" as defined in OAC Rule 3745-31-01(JJJ). The same day, Ohio EPA issued correspondence contesting Respondent's determination.

20. Carmeuse installed and began operating a diesel-powered transloader for the unloading of lime from railcars and transferring it to trucks circa December 2008. The installation of an air contaminant source without applying for and obtaining a PTI and/or Title V permit is a violation of OAC Rule 3745-31-02(A) and OAC Rule 3745-77-02. Respondent submitted a PTI application for the transloader on February 26, 2009.

21. The installation of the transloader also results in increased vehicular traffic at the facility. This constitutes a modification to the facility roadways and parking areas (emissions unit F001). Respondent's failure to apply for and obtain a PTI and/or Title V permit for this emissions unit is a violation of OAC Rule 3745-31-02(A) and OAC Rule 3745-77-02.

22. NWDO sent an NOV to Respondent on June 11, 2009 for the violations identified in Findings 19 and 20 and requested a revised PTI application for emissions unit F001 by July 6, 2009.

23. Ohio EPA issued Respondent final PTI #P0104549 for the transloader and roadways on July 15, 2009.

24. 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. Within ninety (90) days of the effective date of these Orders, Respondent shall submit an application to modify its Title V permit to include the requirements from PTI #P0104549 for the transloader and roadways.

2. Within ninety (90) days of the effective date of these Orders, Respondent shall submit a complete PTI application for the modification (installation of an additional baghouse) for emissions unit P905, Kiln Dust Handling System.

3. Respondent shall pay the amount of one hundred and eighty thousand seven hundred and forty dollars (\$180,740) 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 one hundred and forty-four thousand five hundred and ninety-two dollars (\$144,592) of the total amount. The official check shall be submitted to Brenda Case, 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

4. In lieu of paying the remaining thirty-six thousand one hundred and forty-eight dollars (\$36,148) 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 \$36,148 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 \$36,148. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

5. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

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

6. Should Respondent fail to fund the SEP within the required time frame set forth in Order 4, Respondent shall immediately pay to Ohio EPA \$36,148 for civil penalty in accordance with the procedures in Order 3.

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 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 principal executive officer of Respondent of at least the level of vice-president or his duly authorized representative, if such representative is responsible for the overall operation of the facility.

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 facility.

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 Environmental Protection Agency
Northwest District Office
Division of Air Pollution Control
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attn: Andrea Odendahl

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Thomas Kalman

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 specifically contests, does not consent to, and is not paying a penalty for Findings 7, 10 and 12.

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.

XV. TOLLING AGREEMENTS (ORC § 3745.31)

Pursuant to the attached tolling agreements dated May 21, August 11, November 2, and December 29, 2009. Respondent agrees not to assert, plead or raise in any fashion, in any such action hereafter initiated or maintained by the State of Ohio, whether by answer, motion or otherwise, any defense or avoidance based on (a) the running of the statute of limitations during the periods covered by such tolling agreements; or (b) laches or other principles concerning the timeliness of commencing a civil action based upon the failure of the State of Ohio to assert such claims during the periods covered by such tolling

agreements; and the statute of limitations shall be tolled during and for such periods.

ORDERED AND AGREED:

Ohio Environmental Protection Agency



Chris Korleski
Director

3/18/10
Date

AGREED:

Carmeuse Lime, Inc.


Signature

MARCH 10, 2010
Date

KEVIN J. WHYTE
Printed or Typed Name

VICE PRESIDENT, GENERAL COUNSEL
Title

Table I
Carmeuse Lime, Inc.
Listing of Violations
Maple Grove Facility

Permit(s) (including Title V), Law(s) and Rule(s) Violated	Date Violation First Observed (from each quarterly report)	Emissions Unit(s)	Violation Description	Duration of Violation		
				From	To	Total Days/ Months
ORC § 3704.05(C) and (J)(2) PTI 03-13527 Title V permit	2/2/04 -7/31/08	P003 P004	Excess opacities (above 15% as a 6-minute average) recorded by Carmeuse's COMS for 4 th Q of 2003, 1 st , 2 nd , 3 rd and 4 th Qs of 2004, 2005, 2006, 2007 and 1 st and 2 nd Qs of 2008 (see Table I, pages 5, 6 and 7).	10/1/03	6/26/08	452/15
ORC § 3704.05(C) and (J)(2) PTI 03-13527 Title V permit	2/2/04	P003 P004	COMS down with one or both emissions units operating. Down time intermittent over the period of time (4 th Q of 2003, 1 st , 2 nd , 3 rd and 4 th Qs of 2004, 2005, 2006, 2007 and 1 st and 2 nd Qs of 2008 (see Table I, pages 5, 6 and 7).	10/1/03	6/26/08	135/5
ORC § 3704.05(C) and (J)(2) PTI 03-13527 Title V permit	2/2/04	F001 F002 F003	Failed to perform required daily inspections of roads, material handling operations and storage piles, and maintain daily records of such inspections. Quarterly reports document failures to perform inspections.	10/5/03 7/20/04	10/6/03 7/21/04	1/1 1/1

Permit(s) (including Title V), Law(s) and Rule(s) Violated	Date Violation First Observed (from each quarterly report)	Emissions Unit(s)	Violation Description	Duration of Violation		
				From	To	Total Days/ Months
ORC § 3704.05(C) and (J)(2) PTI 03-13527 Title V permit	3/5/04	P003 P004	Emissions test on 1/7/04 and 1/8/04 demonstrated that the lbs of PE/hr and gr of PE/dscf limits were being exceeded. P003: Actual = 72.2 lbs/hr; 0.123 gr/dscf Allowable = 14.23 lbs/hr; 0.021 gr/dscf P004: Actual = 72.2 lbs/hr; 0.123 gr/dscf Allowable = 14.23 lbs/hr; 0.021 gr/dscf. Carmeuse retested on 6/17/04 and demonstrated compliance.	1/7/04	6/17/04	161/6
ORC § 3704.05(C) and (J)(2), PTI 03-13527, Title V permit issued on 1/29/04	8/3/04	P003 P004	Sulfur content in coal was tested as received at 6.23% on April 2, 2004, which exceeded the maximum allowed sulfur content of 5.5% by weight.	4/2/04	4/2/04	1/1
ORC § 3704.05(C) and (J)(2) PTI 03-13527 Title V permit issued on 1/29/04	8/3/04	P001	Abnormal VEs observed from the baghouse stack, in violation of the Title V permit that requires no VEs.	2/24/04	2/25/04	1/1
				4/9/04	4/9/04	1/1
		P905	Abnormal VEs observed from the baghouse stack, in violation of the Title V permit that requires no VEs.	5/9/04	5/10/04	2/1
		P002	Fugitive VE observed from building enclosing transfer points and screening, in violation of "no visible emissions from the building enclosures" provision.	1/9/04	1/9/04	1/1
				1/22/04	1/22/04	1/1
		P905	VE observed escaping building or partial enclosure as a result of leaking transfer pipe. In violation of "no visible emissions from the building enclosures" provision.	3/26/04	6/16/04	8/1

Permit(s) (including Title V), Law(s) and Rule(s) Violated	Date Violation First Observed (from each quarterly report)	Emissions Unit(s)	Violation Description	Duration of Violation		
				From	To	Total Days/ Months
ORC § 3704.05(C) and (J)(2) PTI 03-13527 Title V permit	2/2/05	P905	VEs observed escaping building or partial enclosure as a result of leaking transfer pipe, in violation of "no visible emissions from the building enclosures" provision. (From 4th Q 2004 report which was reviewed on 2/2/05.)	11/13/04	12/8/04	25/2
ORC § 3704.05(C) and (J)(2) PTI 03-13527 Title V permit	3/15/05	P905	Modified emissions unit by allowing pugged LKD to be spilled during truck loading. With on-going LKD spillage, BAT controls (e.g. watering) was not being implemented. Modification of the emissions unit was unpermitted. This has been ongoing (i.e., from 3/15/05 - 10/31/08.)	3/15/05	10/31/08	933/43
ORC § 3704.05(C) and (J)(2) PTI 03-13527 Title V permit issued on 1/29/04	3/2/06	P003 P004	Certified COMS failure and replacement with uncertified COMS. In violation of the terms and conditions of the Title V permit issued on 1/29/04.	2/23/06	5/31/06	98/4

Permit(s) (Including Title V), Law(s) and Rule(s) Violated	Date Violation First Observed (from each quarterly report)	Emissions Unit(s)	Violation Description	Duration of Violation		
				From	To	Total Days/ Months
PTI/PTO Violations:						
ORC § 3704.05(G) OAC Rules 3745-31-02 & 3745-77-02	12/23/03	F002	Failed to get PTI and PTO for lime kiln dust ("LKD") storage pile created in the quarry as a result of LKD being pushed over the quarry rim. Inspection on 12/23/03.	1/1/04*	5/5/05	490/17
ORC § 3704.05(G) OAC Rules 3745-31-02 & 3745-77-02	3/15/05	F002	Failed to get PTI and PTO for temporary (permanent) LKD storage pile located at the pug mill.	3/15/05	4/15/05	30/2

Permit(s) (including Title V), Law(s) and Rule(s) Violated	Date Violation First Observed (from each quarterly report)	Emissions Unit(s)	Violation Description	Duration of Violation		
				From	To	Total Days/ Months
ORC § 3704.05(G) OAC Rules 3745-31-02 & 3745-77-02	4/15/05	F002	Failed to get PTI and PTO for new LKD storage pile created in the quarry after rim pile was abandoned.	4/15/05	(ongoing) 10/31/08*	1139/43
ORC § 3704.05(G) OAC Rules 3745-31-02 & 3745-77-02	5/5/05	F002	Failed to get PTI and PTO for deposition of unpugged LKD (reject lime) at quarry rim.	1/1/04*	(ongoing) 10/31/08*	1,765/59
ORC § 3704.05(G) OAC Rules 3745-77-02 & 3745-77-02	4/1/05	F002	Failure to get PTI and PTO for solid fuel storage piles (coal and coke piles).	1/1/04*	(ongoing) 10/31/08*	1,765/59
ORC § 3704.05(G) OAC Rules 3745-31-02 & 3745-77-02	5/5/05	P905	Failure to get PTI and PTO for material handling of unpugged LKD generated during kiln startup, shutdown or off-spec material generation.	1/1/04*	(ongoing) 10/31/08*	1,765/59

Excess opacities (above 15% as a 6-minute average) recorded by Carmeuse's COMS for emissions units P003/P004 from 1Q. of 2004 to 1Q. of 2005.

<u>Period</u>	<u>1st Q. of 04</u>	<u>2nd Q. of 04</u>	<u>3rd Q. of 04</u>	<u>4th Q. of 04</u>	<u>1st Q. of 05</u>
Total operating time of system in minutes:	130,494	130,433	131,768	131,311	126,144
in days:	91	91	92	91	88
Total operating time with COMS in minutes:	129,036	127,355	131,726	130,009	126,144
in days:	90	88	92	90	88
COMS down times with system operating in minutes:	1,458	3,078	42	1,302	0
in days:	7	4	2	2	0
Total time of non-exempt excess emissions with COMS, in minutes:	32,016	11,826	1,152	40,092	109,236
in days:	60	14	12	43	90
Percentage of total non-exempt excess emission per total operating time:	24.53	9.07	0.87	30.53	86.60
Percent Unacceptable:	24.53	9.07	—	30.53	86.60
Percentage of total COMS downtime in minutes per total operating time in minutes:	1.12	2.4	.87	1.0	0.0
Percent unacceptable:	==	==	==	==	==

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 Carmeuse Lime, Inc.
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Excess opacities (above 15% as a 6-minute average) recorded by Carmeuse's COMS for emissions units P003/P004 from 2Q. of 2005 to 2Q. of 2007

Period	2 nd Q. of 05	3 rd Q. of 05	4 th Q. of 05	1 st Q. of 06	2 nd Q. of 06	3 rd Q. of 06	4 th Q. of 06	1 st Q. of 07	2 nd Q. of 07
Total operating time of system in minutes	131,040	132,480	132,480	129,600	131,040	132,480	131,040	122,386	131,040
in days:	91	92	92	90	91	92	91	85	91
Total operating time w/COMS, in minutes:	131,010	113,280	132,252	76,812	129,948	132,264	128,604	119,708	117,089
in days:	91	79	92	53	90	92	89	83	81
COMS down times w/system operating, in minutes:	30	19,200	228	52,908	1,092	216	2,436	2,678	13,951
in days:	4	4	8	37	20	6	14	4	10
Total time of non-exempt excess emissions w/COMS, in minutes:	3,732	1,992	1,434	2,682	2,208	324	804	0	0
in days:	30	31	38	39	8	11	9	0	0
Percentage of total non-exempt excess emissions per total operating time:	2.84	1.50	1.08	2.07	1.68	0.24	0.61	0.0	0.0
Percent unacceptable:	==	==	==	==	==	==	==	==	==
Percentage of total COMS downtime in minutes per total operating time in minutes:	0.02	14.5	0.17	41	0.83	0.16	1.85	2.2	10.65
Percent unacceptable:	==	14.5	==	41	==	==	==	==	10.65

Excess opacities (above 15% as a 6-minute average) recorded by Carmeuse's COMS for emissions units P003/P004 from 3Q. of 2007 to 2Q. of 2008

Director's Final Findings and Orders
 Carmeuse Lime, Inc.
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<u>Period</u>	<u>3rd Q. of 07</u>	<u>4th Q. of 07</u>	<u>1st Q. of 08</u>	<u>2nd Q. of 08</u>	<u>3rd Q. of 08</u>	<u>4th Q. of 08</u>	<u>Total</u> <u>(4Q03-2Q08)</u>
Total operating time of system in minutes:							
in days:	132,480	131,334	30,980	131,040			1,554
total, in months	92	91	43	91			52
Total operating time with COMS, in minutes:							
in days:	132,480	131,322	130,980	130,986			1,237
total in months	92	91	43	91			42
COMS down times with one or both emissions units operating, in minutes in days:							
	0	12	0	54			135
in days:	0	2	0	6			5
total in months:							
Total time of non-exempt excess emissions with COMS, in minutes:							
	60	0	0.0	378			452
in days:	3	0	0	7			15
total in months:							
Percentage of total non-exempt excess emissions per total operating time:							
Percent unacceptable:	0.05	0	0	0.29			
	==	==	==	==			
Percentage of total COMS downtime in minutes per total operating time in minutes:							
	0.0	0.0	0.0	0.04			
Percent unacceptable:	==	==	==	==			

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OHIO EPA

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LEGAL OFFICE

TOLLING AGREEMENT Third Extension

This Agreement, dated this 29th day of December 2009, is made by and between:

Ohio Environmental Protection Agency ("Ohio EPA"), 50 West Town Street,
Suite 700, Columbus, Ohio 43215; and

Carmeuse Lime, Inc. ("Respondent"), 1967 West County Road 42, Bettsville, Ohio
44815.

Recitals

WHEREAS, Ohio EPA pursuant to Ohio Revised Code ("ORC") Chapter 3704, has sent an invitation to negotiate to Respondent for purposes of resolving its claims for civil and/or administrative penalties for violations of environmental law alleged to have occurred at Respondent's facility located at 1967 West County Road #42, Bettsville, Seneca County, Ohio;

WHEREAS the parties to this Agreement desire to settle this matter amicably and expeditiously through negotiated Director's Final Findings and Orders. The parties recognize and acknowledge that such a resolution would avoid the time and expense associated with litigation upon referral of this matter to the Ohio Attorney General, or USEPA;

WHEREAS ORC § 3745.31(D) provides that the time periods established in the statute of limitations may be tolled by mutual agreement between the enforcing agency and the person who is subject to a civil or administrative penalty of any kind under an environmental law;

WHEREAS Ohio EPA and Respondent entered into Tolling Agreements in which they agreed that the time between 22 April 2009 and 22 July 2009, extended to include the time between 22 April 2009 and 23 October 2009, and the time between 22 April 2009 and 31 December 2009 respectively, would not be included in computing the time periods under the statute of limitations set forth in ORC § 3745.31. Pursuant to the Tolling Agreements Respondent agreed not to assert, plead or raise in any fashion, in any such action hereafter initiated or maintained by the State of Ohio, whether by answer, motion or otherwise, any defense or avoidance based on (a) the running of the statute of limitations during the aforementioned period; or (b) laches or other principles concerning the timeliness of commencing a civil action based upon the failure of the State of Ohio to assert such claims during the aforementioned period; and the statute of limitations shall be tolled during and for such period; and

WHEREAS Ohio EPA and Respondent have determined it still to be in their best

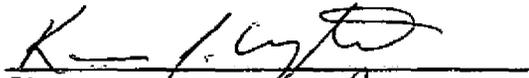
interests to, by mutual agreement, toll the statute of limitations time periods in ORC § 3745.31, as set forth below:

NOW THEREFORE, Ohio EPA and Respondent agree as follows:

1. Respondent agrees that the times between 22 April 2009 and 22 July 2009, the time between 22 July 2009 and 23 October 2009, and the time between 22 April 2009 and 31 December 2009, and further agrees that the time between 22 April 2009 and 15 March 2010 will not be included in computing the time periods under the statute of limitations set forth in ORC § 3745.31. Respondent agrees not to assert, plead or raise in any fashion, in any such action hereafter initiated or maintained by the State of Ohio, whether by answer, motion or otherwise, any defense or avoidance based on (a) the running of the statute of limitations during the aforementioned period; or (b) laches or other principles concerning the timeliness of commencing a civil action based upon the failure of the State of Ohio to assert such claims during the aforementioned period; and the statute of limitations shall be tolled during and for such period.
2. Nothing contained in this Agreement shall be construed as an admission by Respondent of any liability or wrongdoing.
3. This Agreement is binding upon Ohio EPA, Respondent, and Respondent's successors in interest liable under Ohio law.
4. Nothing contained in this Agreement shall preclude the commencement of an action necessary to protect the public health, welfare and environment.
5. This Agreement may be extended by the mutual agreement of the parties.
6. The undersigned representative of Respondent has been authorized to enter into this Agreement, and to bind Respondent to this Agreement.

CARMEUSE LIME, INC.

CHRIS KORLESKI, DIRECTOR


Signature


Signature

Kevin J. Whyte
Printed Name

3/18/10
Date

2/3/10
Date

TOLLING AGREEMENT Second Extension

This Agreement, dated this 2^d day of November 2009, is made by and between:

Ohio Environmental Protection Agency ("Ohio EPA"), 50 West Town Street,
Suite 700, Columbus, Ohio 43215; and

Carmeuse Lime, Inc. ("Respondent"), 1967 West County Road 42, Bettsville, Ohio
44815.

Recitals

WHEREAS, Ohio EPA pursuant to Ohio Revised Code ("ORC") Chapter 3704. has sent an invitation to negotiate to Respondent for purposes of resolving its claims for civil and/or administrative penalties for violations of environmental law alleged to have occurred at Respondent's facility located at 1967 West County Road #42, Bettsville, Seneca County, Ohio;

WHEREAS the parties to this Agreement desire to settle this matter amicably and expeditiously through negotiated Director's Final Findings and Orders. The parties recognize and acknowledge that such a resolution would avoid the time and expense associated with litigation upon referral of this matter to the Ohio Attorney General, or USEPA;

WHEREAS ORC § 3745.31(D) provides that the time periods established in the statute of limitations may be tolled by mutual agreement between the enforcing agency and the person who is subject to a civil or administrative penalty of any kind under an environmental law;

WHEREAS Ohio EPA and Respondent on 21 May 2009 entered into a Tolling Agreements in which they agreed that the time between 22 April 2009 and 22 July 2009, and extended to include the time between 22 April 2009 and 23 October 2009, respectively, would not be included in computing the time periods under the statute of limitations set forth in ORC § 3745.31. Pursuant to the Tolling Agreements Respondent agreed not to assert, plead or raise in any fashion, in any such action hereafter initiated or maintained by the State of Ohio, whether by answer, motion or otherwise, any defense or avoidance based on (a) the running of the statute of limitations during the aforementioned period; or (b) laches or other principles concerning the timeliness of commencing a civil action based upon the failure of the State of Ohio to assert such claims during the aforementioned period; and the statute of limitations shall be tolled during and for such period; and

WHEREAS Ohio EPA and Respondent have determined it still to be in their best

interests to, by mutual agreement, toll the statute of limitations time periods in ORC § 3745.31, as set forth below:

NOW THEREFORE, Ohio EPA and Respondent agree as follows:

1. Respondent agrees that the time between 22 April 2009 and 22 July 2009, and further agrees that the time between 22 July 2009 and 23 October 2009, now further agrees that the time between 22 April 2009 and 31 December 2009 will not be included in computing the time periods under the statute of limitations set forth in ORC § 3745.31. Respondent agrees not to assert, plead or raise in any fashion, in any such action hereafter initiated or maintained by the State of Ohio, whether by answer, motion or otherwise, any defense or avoidance based on (a) the running of the statute of limitations during the aforementioned period; or (b) laches or other principles concerning the timeliness of commencing a civil action based upon the failure of the State of Ohio to assert such claims during the aforementioned period; and the statute of limitations shall be tolled during and for such period.
2. Nothing contained in this Agreement shall be construed as an admission by Respondent of any liability or wrongdoing.
3. This Agreement is binding upon Ohio EPA, Respondent, and Respondent's successors in interest liable under Ohio law.
4. Nothing contained in this Agreement shall preclude the commencement of an action necessary to protect the public health, welfare and environment.
5. This Agreement may be extended by the mutual agreement of the parties.
6. The undersigned representative of Respondent has been authorized to enter into this Agreement, and to bind Respondent to this Agreement.

CARMEUSE LIME, INC.


Signature

STEPHEN C SMITH
Printed Name

OCTOBER 27, 2009
Date

CHRIS KORLESKI, DIRECTOR


Signature

11/2/09
Date

OHIO E.P.A.

AUG 12 2009

TOLLING AGREEMENT Extension

ENTERED DIRECTOR'S JOURNAL

This Agreement, dated this 11th day of August 2009, is made by and between:

Ohio Environmental Protection Agency ("Ohio EPA"), 50 West Town Street,
Suite 700, Columbus, Ohio 43215; and

Carmeuse Lime, Inc. ("Respondent"), 1967 West County Road 42, Bettsville, Ohio
44815.

Recitals

WHEREAS, Ohio EPA pursuant to Ohio Revised Code ("ORC") Chapter 3704. has sent an invitation to negotiate to Respondent for purposes of resolving its claims for civil and/or administrative penalties for violations of environmental law alleged to have occurred at Respondent's facility located at 1967 West County Road #42, Bettsville, Seneca County, Ohio;

WHEREAS the parties to this Agreement desire to settle this matter amicably and expeditiously through negotiated Director's Final Findings and Orders. The parties recognize and acknowledge that such a resolution would avoid the time and expense associated with litigation upon referral of this matter to the Ohio Attorney General, or USEPA;

WHEREAS ORC § 3745.31(D) provides that the time periods established in the statute of limitations may be tolled by mutual agreement between the enforcing agency and the person who is subject to a civil or administrative penalty of any kind under an environmental law;

WHEREAS Ohio EPA and Respondent on 21 May 2009 entered into a Tolling Agreement in which they agreed that the time between 22 April 2009 and 22 July 2009 would not be included in computing the time periods under the statute of limitations set forth in ORC § 3745.31 in which Respondent agreed not to assert, plead or raise in any fashion, in any such action hereafter initiated or maintained by the State of Ohio, whether by answer, motion or otherwise, any defense or avoidance based on (a) the running of the statute of limitations during the aforementioned period; or (b) laches or other principles concerning the timeliness of commencing a civil action based upon the failure of the State of Ohio to assert such claims during the aforementioned period; and the statute of limitations shall be tolled during and for such period; and

WHEREAS Ohio EPA and Respondent have determined it still to be in their best interests to, by mutual agreement, toll the statute of limitations time periods in ORC § 3745.31, as set forth below:

NOW THEREFORE, Ohio EPA and Respondent agree as follows:

1. Respondent agrees that the time between 22 April 2009 and 22 July 2009, and further agrees that the time between 22 July 2009 and 23 October 2009 will not be included in computing the time periods under the statute of limitations set forth in ORC § 3745.31. Respondent agrees not to assert, plead or raise in any fashion, in any such action hereafter initiated or maintained by the State of Ohio, whether by answer, motion or otherwise, any defense or avoidance based on (a) the running of the statute of limitations during the aforementioned period; or (b) laches or other principles concerning the timeliness of commencing a civil action based upon the failure of the State of Ohio to assert such claims during the aforementioned period; and the statute of limitations shall be tolled during and for such period.
2. Nothing contained in this Agreement shall be construed as an admission by Respondent of any liability or wrongdoing.
3. This Agreement is binding upon Ohio EPA, Respondent, and Respondent's successors in interest liable under Ohio law.
4. Nothing contained in this Agreement shall preclude the commencement of an action necessary to protect the public health, welfare and environment.
5. This Agreement may be extended by the mutual agreement of the parties.
6. The undersigned representative of Respondent has been authorized to enter into this Agreement, and to bind Respondent to this Agreement.

CARMEUSE LIME, INC.

CHRIS KORLESKI, DIRECTOR

Stephen C Smith
Signature

Chris Korleski
Signature

STEPHEN C SMITH
Printed Name

8/11/09
Date

JULY 31, 2009
Date

TOLLING AGREEMENT

This Agreement, dated this 21st day of MAY 2009, is made by and between:

Ohio Environmental Protection Agency ("Ohio EPA"), 50 West Town Street,
Suite 700, Columbus, Ohio 43215; and

Carmeuse Lime, Inc. ("Respondent"), 1967 West County Road 42, Bettsville, Ohio
44815.

Recitals

WHEREAS, Ohio EPA pursuant to Ohio Revised Code ("ORC") Chapter 3704, has sent an invitation to negotiate to Respondent for purposes of resolving its claims for civil and/or administrative penalties for violations of environmental law alleged to have occurred at Respondent's facility located at 1967 West County Road #42, Bettsville, Seneca County, Ohio;

WHEREAS the parties to this Agreement desire to settle this matter amicably and expeditiously through negotiated Director's Final Findings and Orders. The parties recognize and acknowledge that such a resolution would avoid the time and expense associated with litigation upon referral of this matter to the Ohio Attorney General, or USEPA;

WHEREAS ORC § 3745.31(D) provides that the time periods established in the statute of limitations may be tolled by mutual agreement between the enforcing agency and the person who is subject to a civil or administrative penalty of any kind under an environmental law; and

WHEREAS Ohio EPA and Respondent have determined it to be in their best interests to, by mutual agreement, toll the statute of limitations time periods in ORC § 3745.31, as set forth below:

NOW THEREFORE, Ohio EPA and Respondent agree as follows:

1. Respondent agrees that the time between 22 April 2009 and 22 July 2009 will not be included in computing the time periods under the statute of limitations set forth in ORC § 3745.31. Respondent agrees not to assert, plead or raise in any fashion, in any such action hereafter initiated or maintained by the State of Ohio, whether by answer, motion or otherwise, any defense or avoidance based on (a) the running of the statute of limitations during the aforementioned period; or (b) laches or other principles concerning the timeliness of commencing a civil action based upon the failure of the State of Ohio to

assert such claims during the aforementioned period; and the statute of limitations shall be tolled during and for such period.

2. Nothing contained in this Agreement shall be construed as an admission by Respondent of any liability or wrongdoing.

3. This Agreement is binding upon Ohio EPA, Respondent, and Respondent's successors in interest liable under Ohio law.

4. Nothing contained in this Agreement shall preclude the commencement of an action necessary to protect the public health, welfare and environment.

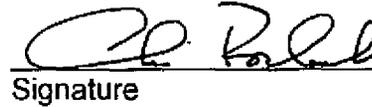
5. This Agreement may be extended by the mutual agreement of the parties.

6. The undersigned representative of Respondent has been authorized to enter into this Agreement, and to bind Respondent to this Agreement.

CARMEUSE LIME, INC.

CHRIS KORLESKI, DIRECTOR


Signature


Signature

Kevin J. Whyte, VP General Counsel
Printed Name

5/21/09
Date

5/13/09
Date