



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

December 27, 2018

CERTIFIED MAIL

Mr. Charlie Riley
Riley Materials
151 Akron Road
Norwalk, Ohio 44857

Re: Final Findings and Orders for air pollution
violations

Dear Mr. Riley,

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 that reads "Robert Hadzimosi" with a stylized flourish below it.

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

ec: James Kavalec, DAPC
Brandon Schwendeman, DAPC
Tom Sattler, NWDO
Melanie Ray, NWDO
Don Vanterpool, Legal Office
Lee Tullis, DAPC

BEFORE THE

Ohio EPA DEC 27 '18
Entered Directors Journal

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Riley Materials
4635 State Route 601
Norwalk, Ohio 44857

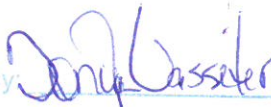
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Director's Final Findings
and Orders

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: 12-27-18

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Riley Materials, ("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 an asphalt facility (Facility ID#0339020175) located at 4635 State Route 601, in Norwalk, Ohio (Huron County). At this facility, among other emissions units, Respondent operates emissions unit ("EU") P901 which is the 150 TPH drum mix asphalt plant with baghouse. EU P901 was installed and began operation in March of 2005. The most current renewal permit to install and operate ("PTIO") P0122616, which contains EU P901, was issued on July 18, 2017.

2. ORC § 3704.05(C) states, in part, that no person who is a holder of a permit issued under ORC § 3704.03(F) or (G) shall violate any of its terms or conditions.

3. PTIO P0122616 requires Respondent to conduct a stack test for EU P901 within five (5) years after the most current stack test, as specified in the Term C1.f)(2)(a) of the permit.

4. PTIO P0122616, Term C1d)(4)(a) through (e) of the permit requires Respondent to maintain monthly records of the following information for EU P901:

- a. The asphalt production in tons;
- b. The asphalt production, in tons, for each fuel type;
- c. The rolling, 12-month summation of the asphalt production, in tons;
- d. The rolling, 12-month summations of PE, CO, NO_x, SO₂, and VOC emissions, in tons, and
- e. The maximum percentage of RAP and/or shingles used for each mix.

5. PTIO P0122616 requires Respondent to perform the emissions readings for EU P901 within 60 days after achieving the maximum production rate but not later than 180 days after achieving initial startup of the facility as specified in the Term C.1d)(14) of the permit.

6. At the beginning of August of 2017, Ohio EPA, Northwest District Office ("NWDO") discovered that Respondent failed to conduct a stack test within five (5) years after the most recent stack test (which was conducted on July 27, 2012), in violation of the terms and conditions of PTIO P0122616 and ORC § 3704.05(C).

7. On August 11, 2017, Ohio EPA, NWDO sent a notice of violation ("NOV") letter to Respondent for the violation of the terms and conditions of PTIO P0121349 and ORC § 3704.05(C) as mentioned in Finding #6.

8. On November 8, 2017, Ohio EPA, NWDO conducted a file review of Respondent's facility. During this file review, NWDO discovered that Respondent failed to maintain the records as outlined in the Term C.1d)(4)a. through e. and as referenced in Finding #4 for EU P901, in violation of the terms and conditions of PTIO P0122616 and ORC § 3704.05(C). On November 28, 2017, Respondent cancelled the rescheduled stack test for EU P901 and to date has not conducted a stack test, in violation of the terms and conditions of PTIO P0122616 and ORC § 3704.05(C).

9. On January 11, 2018, Ohio EPA, NWDO sent a NOV letter to Respondent for the violations of the terms and conditions of PTIO P0122616 and ORC § 3704.05(C) as mentioned in Finding #8.

10. On February 3, 2018, Respondent submitted the required monthly records as cited in the Ohio EPA, NWDO's January 11, 2018 NOV letter.

11. In October of 2017, NWDO asked Respondent's consultant to confirm that visible emissions readings were conducted and records required by the permit were being maintained. In February of 2018, Respondent's consultant confirmed that the visible emissions were not performed; therefore, Respondent failed to perform the emissions readings within 60 days after achieving the maximum production rate but not later than 180 days after initial startup of the facility for EU P901 as specified in the Terms C.1 d)(14) of the permit, in violation of the terms and conditions of PTIO P0122616 and ORC § 3704.05(C).

12. On February 16, 2018, Ohio EPA, NWDO sent a NOV letter to Respondent for the violations of the terms and conditions of PTIO P0121349 and ORC § 3704.05(C) for the violation mentioned in Finding #11.

13. On June 29, 2018, Respondent conducted and passed the stack test for EU P901.

14. 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 seventeen thousand dollars (\$17,000) 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 twelve thousand dollars (\$12,000) of the total amount. The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying Respondent, to:

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

2. In lieu of paying five thousand dollars (\$5,000) of the total civil penalty, Respondent has performed a Supplemental Environmental Project in July of 2018 by spreading 2,000 tons of recycled asphalt pavement grindings onto the unpaved roadways and parking areas at the Huron Country Fairgrounds to prevent fugitive dust created by fairgoers.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check 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 Respondents pursuant to these Orders shall be addressed to:

Ohio EPA
Northwest District Office
Air Pollution Control Division
347 North Dunbridge Road
Bowling Green, Ohio 43402-9398
Attention: Tom Sattler

and to:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Jim Kavalec, Manager
Compliance and Enforcement Section

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 agree 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

12-24-18
Date

AGREED:

Riley Materials



Signature

JACK RILEY vp
Printed or Typed Name

12.18.18
Date