

BEFORE THE

By:  Date: _____

5/5/2021

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Carmeuse Lime and Stone, Inc.	:	<u>Director's Final Findings</u>
1967 West County Road #42	:	<u>and Orders</u>
Bettsville, Ohio 44815	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Carmeuse Lime and Stone, 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 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 is a Delaware Corporation which produces lime and limestone. Respondent owns and operates a facility (Facility ID#0374000010) located at 1967 West County Road #42, in Bettsville, Ohio (Seneca County). At this facility, among other emissions units (EUs), Respondent operates Rotary Lime Kiln #1 (EU P003) and Rotary Lime Kiln #2 (EU P004). The Permit to Install ("PTI") P0124634 for EU P003 and EU P004 was issued on July 12, 2018. The current Title V Operating Permit ("TVPTO") P0128727 was issued on January 20, 2021 and has the expiration date of February 10, 2026.

2. ORC § 3704.05(C) states that no person who is the holder of a permit under division (F) or (G) of Section 3704.03 of the Revised Code shall violate any of its terms and conditions.

3. ORC § 3704.05(G) states that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704. OAC Rule 3745-21-25 was adopted by the Director pursuant to ORC Chapter 3704.

4. Terms and conditions of PTI P0124634 and TVPTO P0128727 for EU P003 and EU P004 establish the allowable particulate matters ("PM") emissions limitations of 28.46 lbs/hr and 0.021 gr/dscf.

5. Terms and conditions of PTI P0124634, TVPTO P0128727 and 40 CFR, Part 63, Subpart AAAAA for EU P003 and EU P004 establish the allowable PM emissions limitation of 0.12 lb/ton stone feed.

6. OAC Rule 3745-31-05(D)(1)(b), in part, specifies that the Director of Ohio EPA may impose such special terms and conditions in a permit-to-install or permit-to-install/operate ("PTIO") or Federally Enforceable PTIO as are appropriate or necessary to ensure compliance with the applicable laws and to ensure adequate protection of environmental quality.

7. On October 20, 2020, Respondent performed PM emissions testing for both EU P003 and EU P004. The emissions test results, which were submitted to Ohio EPA, Northwest District Office—Division of Air Pollution Control ("NWDO-DAPC") on November 25, 2020, outlined the average measured PM emissions rates as follows: 38.03 lbs/hr, 0.0297 gr/dscf, and 0.355 lb/ton stone feed. Since these average measured values exceeded the allowable limits, Respondent was in violation of the Permit Standard terms and conditions of PTI P0124634, TVPTO P0128727, 40 CFR, Part 63, Subpart AAAAA, OAC Rule 3745-31-05(D)(1)(b), and ORC § 3704.05(C) and (G).

8. On December 8, 2020, NWDO-DAPC issued Respondent a notice of violation letter for the violations outlined in Finding #7.

9. On December 7, 2020 and January 4, 2021, Respondent submitted intention-to-test notifications for a re-test that was scheduled for January 26, 2021.

10. On January 26, 2021, Respondent conducted a re-test for EU P003 and EU P004. On February 24, 2021, Respondent submitted the test result to NWDO-DAPC. On March 17, 2021, NWDO-DAPC completed its review of the test results and concluded that the re-test demonstrated that the emissions units were back into compliance with the allowable limits.

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:

Respondent shall pay the amount of twenty-three thousand three hundred dollars (\$23,300) 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 twenty-three thousand three hundred dollars (\$23,300). 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

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
Division of Air Pollution Control
347 North Dunbridge Road
Bowling Green, Ohio 43402-9398
Attention: Melanie Ray

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 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 Respondents 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



Laurie A. Stevenson
Director

5/5/2021

Date

AGREED:

Carmeuse Lime and Stone, Inc.



Signature

April 29, 2021
Date

Kevin J. Whyte
Printed or Typed Name