BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Oxford Mining Company	**:**	**Director's Final Findings**
P.O. Box 427	**:**	**and Orders**
Coshocton, Ohio 43812	**:**	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders are issued to Oxford Mining 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 the Respondent's facility 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 is a corporation duly organized under the laws of the State of Ohio. The Respondent owns and operates the Standing Stone Division, which includes an aggregate processing facility that is located at 42660 Deersville Ridge Road, Cadiz, Ohio and that contains a 200 tons per hour limestone crushing and screening operation with associated storage piles and roadways. The following aggregate operations are located at the facility: aggregate storage piles ("emissions unit F005"), unpaved roadways

at the aggregate area ("emissions unit F006"), and aggregate material handling, crushing and screening ("emissions unit F007"). The facility is identified by Ohio EPA as facility identification #0634000088.

2. Emissions units F005, F006 and F007 are "air contaminant sources" as defined by Ohio Administrative Code ("OAC") Rules 3745-31-01(D) and 3745-35-01(B)(1).

3. As required in OAC Rule 3745-31-02(A), no person shall install a new source of air pollutants without first obtaining a permit to install ("PTI") from the Director, unless as otherwise specified by law or rule.

4. As required in OAC Rule 3745-35-02(A), no person shall operate any air contaminant source without applying for and obtaining a permit to operate ("PTO") from the Director, unless as otherwise specified by law or rule.

5. As required in OAC Rule 3745-17-07(B)(1), visible particulate emissions from any fugitive dust source shall not exceed 20 percent opacity as a three-minute average, except as otherwise provided by rule. Furthermore, as required in OAC Rule 3745-17-08(B), no person shall operate or use these sources without taking reasonably available control measures to prevent fugitive dust from becoming airborne, unless as otherwise specified by rule. Also, any malfunctions of control equipment resulting in a violation of an emission standard must be reported as required in OAC Rule 3745-15-06(B).

6. As required in ORC § 3704.05(A), (C) and (G), no person shall allow the emission of an air contaminant in violation of any rule adopted by the Director, shall violate any term or condition of a permit issued by the Director, and shall violate any order, rule or determination of the Director, respectively.

7. On September 20, 1999, Ohio EPA Southeast District Office ("SEDO") received PTI and PTO applications from the Respondent for emissions units F005, F006 and F007. The applications showed the construction/installation of emissions units F005, F006 and F007 occurred in September 1999, without first obtaining a PTI, in violation of OAC Rule 3745-31-02(A) and ORC § 3704.05(G).

8. Operation of emissions units F005, F006 and F007 occurred in October 1999, without first obtaining PTOs, in violation of OAC Rule 3745-35-02(A) and ORC § 3704.05(G).

9. On December 21, 1999, a SEDO representative visited Respondent's facility and, in a phone conversation with the Respondent on December 22, 1999, stated that excessive dust was being created from start-up of the crusher.

10. On April 26, 2000, PTI # 06-05975 was issued to Respondent for emissions units F005, F006 and F007. The PTI, in part, requires the Respondent to (1) operate

emissions units F005, F006 and F007 using best available technology ("BAT") sufficient to minimize or eliminate visible emissions of fugitive dust in accordance with OAC Rule 3745-31-05; (2) comply with a visible emission limitation for each emissions unit; (3) report malfunctions of control systems in accordance with OAC Rule 3745-15-06(B); (4) perform daily visible emission inspections; (5) submit quarterly deviation reports; (6) maintain records for a period of five years; and (7) determine compliance no later than 180 days after start-up of the emissions unit with the visible emission limitation of 15 percent opacity as a three-minute average, for emissions unit F007.

11. On May 25, 2000, SEDO conducted an inspection of Respondent's facility. Correspondence to the Respondent from SEDO dated May 30, 2000 cited that daily visible emission checks of emissions units F005, F006 and F007 were not being performed and recorded, in violation of the terms and conditions of the Respondent's PTI. The violations of the terms and conditions of the Respondent's PTI constituted violations of ORC § 3704.05(C). The correspondence requested the Respondent begin daily visible emission checks immediately and submit a copy of the log to SEDO within 10 days of receipt of the correspondence. It was also noted in the correspondence that emissions units F005, F006 and F007 were experiencing a malfunction of the water spray system that is required to control fugitive particulate emissions. Emissions units F005 and F007 were temporarily shut down while repairs were made.

12. A response letter was received by SEDO from the Respondent on June 6, 2000. The letter indicated that a record of daily emission checks had begun as of May 29, 2000 and copies were supplied.

13. On August 3, 2000, a SEDO representative noted significant visible emissions from the Respondent's facility. The SEDO representative spoke with Mr. Art Downend regarding the emissions and Mr. Downend commented that the water truck was down and expected to be down for a couple days. The Respondent did not report the malfunction, in violation of OAC Rule 3745-15-06(B) and the terms and conditions of the Respondent's PTI, and continued to operate the emissions unit, in violation of OAC Rule 3745-17-08(B). This also constitutes a violation of ORC § 3704.05 (C) and (G). Mr. Downend reported on August 4, 2000 that the water truck was repaired on the evening of August 3, 2000.

14. On June 13, 2001, a SEDO representative noted large quantities of dust drifting across a highway adjacent to the Respondent's property. The representative observed the crusher and screen both emitting what appeared to be 100 percent opacity, in violation of the terms and conditions of the PTI, OAC Rule 3745-17-08(B) and ORC § 3704.05(C) and (G). The representative spoke with Mr. Downend, and he confirmed the emissions were unreasonable and shut down the operations. Mr. Downend also reported that a foaming system was going to be installed in the future.

15. On June 14, 2001, Mr. Downend spoke with a SEDO representative regarding the emissions noted the day before. Mr. Downend reported that the water system was "plugged up" on the crusher, causing the excess dust. The SEDO

representative reminded Mr. Downend that any such malfunction that results in a violation must be reported by the Respondent, per the terms and conditions of its PTI and OAC Rule 3745-15-06(B). This also constituted a violation of ORC § 3704.05(C) and (G).

16. On June 19, 2001, SEDO representatives visited the Respondent's facility. During the visit, it was noted that the roads were in need of watering. It also was reported to Mr. Downend that when the Respondent's new PTOs are issued, they also will require daily visible emission inspections and documentation that malfunctions, such as the one on June 14, 2001, would be required to be reported in a quarterly deviation report.

17. On August 10, 2001, a SEDO representative visited the Respondent's facility and observed visible emissions during start-up of the crusher. Mr. Downend was informed that the foam and water system may require adjusting in order to comply with the Respondent's permits. It also was noted that although the roads had been watered, the frequency needed to be increased to minimize visible emissions.

18. The Respondent submitted three quarterly deviation reports beginning with the July 1, 2001 through September 30, 2001 quarter, as required by the PTI issued on April 26, 2000. The quarterly deviation reports for the five quarters prior to July 1, 2001 were not submitted by the last day of the month following the quarter, as required under the Respondent's permit. This also constitutes a violation of ORC § 3704.05(C). The three reports submitted showed no deviations and/or malfunctions. However, on August 10, 2001, a SEDO representative did observe excessive visible emissions.

19. On April 15, 2002, a PTO for emissions unit F006 was issued to the Respondent.

20. On April 25, 2002, July 2, 2002 and July 9, 2002, a SEDO representative performed visible emission readings using Method 9 procedures on emission unit F007. As shown in the chart below, the Respondent was in violation of the terms and conditions of its PTI and OAC Rule 3745-17-07(B)(1) on all three dates. Furthermore, on April 25, 2002, the foam suppressor was not operating, in violation of OAC Rule 3745-17-08(B). These violations also constituted violations of ORC § 3704.05(A), (C) and (G). The results are as follows:

Date	Comment	Opacity Ranges (%)	3-minute Opacity Averages (%)	No. of Averages Above Emission Standard (15%, 3-minute average)
April 25, 2002	Foam suppressor (control) not operating	60 to 75	63, 68, 72, 72, 74	5 of 5
July 2, 2002	Foam suppressor running idle	50 to 80	65, 66, 70, 72, 75	5 of 5

Date	Comment	Opacity Ranges (%)	3-minute Opacity Averages (%)	No. of Averages Above Emission Standard (15%, 3-minute average)
July 9, 2002	Foam suppressor operation unknown	35 to 65	43, 44, 50, 53, 53, 55	6 of 6

21. On July 11, 2002, SEDO issued a warning letter to the Respondent. The letter cited the violations of the 15 percent opacity, as a three-minute average, limit contained in the Respondent's PTI. The warning letter also stated that the above violations are normally indicative of malfunctions of the control system or that the control system is not being operated. Since no malfunctions had been reported as required by Respondent's PTI and OAC Rule 3745-15-06(B), it was assumed by Ohio EPA that the control equipment was not being used. Furthermore, the warning letter questioned the veracity of the Respondent's reports because they have all indicated that there are "no unusual events" and that all inspections and control measures were implemented as needed. SEDO's warning letter requested a response within 15 days that was to include copies of the Respondent's records of the daily emission observations and a description of the criteria used to determine if control measures are implemented.

22. On July 23, 2002, SEDO received a reply to the July 11, 2002 warning letter from Respondent which included daily shift inspection reports. Respondent also stated training was given to operators regarding the foam and water spray system.

23. On July 24, 2002, a PTO for emissions unit F005 was issued to the Respondent.

24. The quarterly deviation report for April 1, 2002 through July 30, 2002 was not received by the due date, July 31, 2002, and, to date, has not been received. This is a violation of the terms and conditions of the Respondent's PTI and the PTOs for emissions units F005 and F006, which also is a violation of ORC § 3704.05(C).

25. On August 7, 2002, a PTO for emissions unit F007 was issued to the Respondent.

26. The Respondent has not performed testing to determine compliance with the visible emission limitation of 15 percent opacity, as a three-minute average, for emissions unit F007. This was required by the Respondent's PTI to be conducted no later than 180 days after start-up of the emissions unit. This is a violation of the terms and conditions of the Respondent's PTI, which also is a violation of ORC § 3704.05(C).

27. 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. Except as provided in Orders 2 and 3, the Respondent shall maintain emissions units F005, F006 and F007 in compliance with the terms and conditions of the Respondent's PTI and PTOs; OAC Rules 3745-17-07(B), 3745-17-08(B), 3745-15-06(B)(1), 3745-31-02, and 3745-35-02; and ORC § 3704.05(A), (C), and (G).

2. Within fourteen (14) days from the effective date of these Orders, the Respondent shall submit a quarterly deviation report for the April 1, 2002 through June 30, 2002 calendar quarter, as required by the Respondent's PTI and PTOs for emissions units F005, F006 and F007.

3. Within ninety (90) days from the effective date of these Orders, the Respondent shall perform the testing required under Part II, Section E.3, of the Respondent's PTI #06-05975 in accordance with the following requirements:

a. The emission testing shall be conducted for emissions unit F007 to demonstrate compliance with the visible emission limitation of 15 percent opacity, as a three-minute average, required by the Respondent's PTI and 40 CFR, Part 60, Subpart OOO, Section 60.675(c).

b. The following test method, as listed in the Respondent's PTI, shall be employed to demonstrate compliance with the visible emission limitation of 15 percent opacity, as a three-minute average: Test Method 9, as set forth in "Appendix on Test Methods" in 40 CFR, Part 60 ("Standards of Performance for New Stationary Sources"). Under the data reduction procedures of Test Method 9, a three-minute average shall be used in place of the six-minute average. Alternative U.S. EPA approved test methods may be used with prior approval from Ohio EPA.

c. The test shall be conducted while the emissions unit is operating at or near its maximum capacity, unless otherwise specified or approved by SEDO. Not later than 30 days prior to the proposed test date, the Respondent shall submit an Intent to Test ("ITT") notification to SEDO. The ITT notification shall describe in detail the proposed test methods and procedures, the emissions unit operating parameters, the time and date of the test, and the person(s) who will be conducting the test. Failure to submit such notification for review and

approval prior to the test may result in SEDO's refusal to accept the results of the emission test. Personnel from SEDO shall be permitted to witness the test, examine the testing equipment, and acquire data and information necessary to ensure that the operation of the emissions unit and the testing procedures provide a valid characterization of the emissions from the emissions unit and/or the performance of the control equipment. A comprehensive written report on the results of the emissions test shall be signed by the person or persons responsible for the test and submitted to SEDO within 30 days following completion of the test. The Respondent may request additional time for the submittal of the written report, where warranted, with prior approval from SEDO.

4. Pursuant to ORC § 3704.06, Respondent is assessed a civil penalty in the amount of twenty-two thousand six hundred ten dollars ($22,610) in settlement of Ohio EPA's claim for civil penalties. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of eighteen thousand eighty-eight dollars ($18,088) of the total penalty amount. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" and sent to the following address together with a letter identifying the Respondent:

Brenda Case
Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, OH 43216-1049

The remaining four thousand five hundred twenty-two dollars ($4,522) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, Clark 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 area 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

A copy of both checks shall be sent to Jim Orlemann at the following address:

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

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 responsible official of Respondent. For purposes of these Orders, a responsible official is the person authorized to sign in OAC Rule 3745-35-02(B)(1) for a corporation or a duly authorized representative of Respondent as that term is defined in the above-referenced rule.

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's facility.

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
Division of Air Pollution Control
2195 Front Street
Logan, OH 43138
Attn: Kyle Nay

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 1049
Columbus, OH 43216-1049
Attn: Thomas Kalman

or to such person 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.

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 Date
Director

IT IS SO AGREED:

Oxford Mining Company

_____ _____
Signature Date

_____
Printed or Typed Name

_____
Title