

**BEFORE THE**  
**OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

|                               |   |                                  |
|-------------------------------|---|----------------------------------|
| Hydraulic Press Brick Company | : | <u>Director's Final Findings</u> |
| 8900 Hemlock Road             | : | <u>and Orders</u>                |
| Independence, Ohio 44131      | : |                                  |

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Hydraulic Press Brick 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 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 regulations promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Respondent produces Haydite, a light weight aggregate made from the Chagrin Shale mined in the Cuyahoga Valley, at a facility located at 8900 Hemlock Road, Independence, Cuyahoga County, Ohio. At this facility, Respondent employs a rotary kiln, a shale crushing operation, and a traveling grate clinker cooler (Ohio EPA emissions units P901, P902, and P903, respectively) as part of its operations. Each of these emissions units is an "air contaminant source," as defined in OAC Rule 3745-15-01(C) and (W).and is a source of particulate emissions ("PE"), as defined in Ohio Administrative Code ("OAC") Rule 3745-17-01(B)(11).

2. OAC Rule 3745-17-11 specifies the restrictions on PE from industrial

processes. Allowable rates of PE are established by Table I or Figure II of this rule. OAC Rule 3745-17-11(B)(1) specifies, in part, that any owner or operator of a source of PE in Cuyahoga County shall not exceed the allowable emission rate specified by Curve P-1 of Figure II or by Table I, whichever is more stringent.

3. ORC § 3704.05(A) states that no person shall allow the emission of an air contaminant in violation of any rule adopted by the Director of Ohio EPA unless the person is the holder of a variance permitting the emission of the contaminant in excess of that permitted by the rule or the person is the holder of an operating permit that includes a compliance schedule.

4. 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.

5. 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.

6. ORC § 3704.05(J)(2) states, in part, that no person shall violate any applicable requirements of a Title V permit or any permit condition, except for an emergency as defined in Chapter 40 of the Code of Federal Regulations ("40 CFR") 70.6 (g).

7. The Cleveland Local Air Agency ("CLAA"), a unit of the City of Cleveland, Department of Public Health, is Ohio EPA's contractual representative in Cuyahoga County.

8. Ohio EPA issued a Title V permit to Respondent (Facility ID: 13-18-27-0383) on May 29, 2002. Respondent was required by the Title V permit to control PE from emissions units P901 and P902 through use of a baghouse on each unit and through use of a multiclone on emissions unit P903. A dry sorbent injection system is also used on emissions unit P901 to control sulfur dioxide emissions. Part III, Section A.II.1 of the Title V permit requires that when emissions unit P901 is in operation, the pressure drop across the baghouse be maintained within the range of 0.50 to 5.0 inches of water. Part III, Section A.I.1 of the Title V permit restricts emissions from the multiclone stack of emissions unit P903 to 43.6 pounds of PE per hour.

9. On August 27 and September 19, 20, and 25, 2002, Respondent employed Grace Consulting, Inc. to conduct PE compliance testing on emissions units P901, P902, and P903. The results of the test conducted on September 25, 2002 showed emissions unit P903 to be out of compliance with the Title V permit terms and conditions for PE. Specifically, the tested emissions were 46.56 pounds of PE per hour, which is greater than the PE limit of 43.6 pounds of PE per hour per Respondent's Title V permit and OAC Rule 3745-17-11(B)(1).

10. On October 24, 2002, CLAA inspected Respondent's facility. At that time, the inspector observed the operation of emissions unit P901 and found that the pressure drop across the baghouse serving this unit exceeded 5.0 inches of water, in violation of Part III,

Section A.II.1 of Respondent's Title V permit terms and conditions. Specifically, baghouse compartments number 3 and number 5 were recorded at 5.4 inches and 5.2 inches of water column, respectively, at the time of the inspection. The inspector also observed that the magnehelic gauges measuring the pressure drop across the baghouse unit were not properly connected and appeared to be reading the pressure drop from the baghouse compartment to the ambient atmosphere, in violation of Part III, Section A.III.1 of Respondent's Title V permit terms and conditions. The CLAA inspector verbally notified Respondent of these violations at the time of the inspection. During the course of the inspection, Respondent also informed the CLAA inspector of the compliance testing that had been conducted on emissions units P901, P902, and P903 (as described in Finding 9, above), and of the non-compliant result for emissions unit P903.

11. Respondent submitted the results of the compliance testing that had been conducted on emissions units P901, P902, and P903 to CLAA on November 1, 2002.

12. On November 11, 2002, CLAA issued a Notice of Violation ("NOV") to Respondent, citing the violations discovered during the October 24, 2002, inspection. Specifically, CLAA cited the violation of Respondent's Title V permit terms and conditions regarding emissions unit P901's baghouse operation (i.e., the pressure drop range deviation and the incorrect installation of magnehelic gauges). CLAA also cited Respondent's submission of compliance testing results over thirty days after testing was completed, in violation of Respondent's Title V permit terms and conditions. Finally, CLAA cited Respondent for exceeding the PE limit for emissions unit P903, as established by OAC Rule 3745-17-11(B)(1) and Respondent's Title V permit terms and conditions.

13. Respondent replied to CLAA in a letter dated November 27, 2002. Respondent stated that the magnehelic gauges serving the baghouse for emissions unit P901 would be properly connected by November 30, 2002. Respondent acknowledged that the compliance test reports had been submitted late and stated that an extension of time request should have been submitted to CLAA. Respondent also described the repair, parts replacement, and maintenance activities to be conducted on the emissions unit P903's air pollution control equipment during the facility's annual winter non-operational period. The unit was to be shut down on December 16, 2002, and was scheduled to be placed back in service on January 20, 2003. Respondent stated that another emission compliance test would be conducted on emissions unit P903 thirty days after the unit was put back on line. In a letter dated January 10, 2003, Respondent provided additional information and detail regarding the rebuild of the multicclone control unit. At that time, Respondent stated that it was likely that the annual shutdown of emissions unit P903 would possibly continue until the end of February 2003.

14. Emissions unit P903 was placed back in service in April 2003, after the rebuild of the multicclone unit was completed. Respondent submitted an intent to test notification to CLAA on April 16, 2003. The emission compliance test was conducted on emissions unit P903 by Grace Consulting, Inc. on May 29, 2003. The results of this test were submitted to CLAA on June 18, 2003. The average PE from emissions unit P903 were 4.98 pounds of PE per hour, which is substantially less than the PE limit of 43.6 pounds of PE per hour per the facility's Title V permit and OAC Rule 3745-17-11(B)(1).

15. Based on the above Findings, the Director of Ohio EPA finds that Respondent violated the following ORC laws and OAC Rules:

- a. ORC § 3704.05(A), (C), (G), and (J)(2), for not complying with the applicable requirements of a Title V permit or permit condition (i.e., pressure drop operating restriction, pressure drop monitoring requirement, deadline for test report submission, and particulate emission limitation); and
- b. OAC Rule 3745-17-11, for exceeding the PE limit.

16. 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. Pursuant to ORC Chapter 3704, Respondent is assessed the amount of nineteen thousand dollars (\$19,000) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of seven thousand dollars (\$7,000) of the total amount. Within ninety (90) days after the above payment, Respondent shall pay to Ohio EPA the amount of seven thousand dollars (\$7,000) of the total amount. Payment shall be made by official checks made payable to "Treasurer, State of Ohio" and shall be submitted to Brenda Case, or her successor, with a letter identifying the Respondent and the facility, to:

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

In lieu of payment to Ohio EPA of the remaining five thousand dollars (\$5,000) of the total penalty amount, Respondent shall perform the supplemental environmentally beneficial project identified in Order 2. In the event Respondent defaults or otherwise fails to complete the project as specified in Order 3, the \$5,000 shall immediately become due and payable to Ohio EPA. Such payment shall be made by official check made payable to "Treasurer, State of Ohio" and sent to Brenda Case, or her successor, at the above-stated address.

A copy of each check shall be sent to James A. Orlemann, Assistant Chief, Enforcement Section, or his successor, at the following address:

Division of Air Pollution Control

Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43216-1049

2. As outlined below, and with reference to the chapters described in Ohio EPA's 1993 "Ohio Pollution Prevention and Waste Minimization Planning Guidance Manual" (the Manual), Respondent shall conduct a pollution prevention study ("P2 Study") at the facility. The P2 Study is an assessment of selected facility processes to identify and evaluate specific source reduction and environmentally sound recycling opportunities.

- a. Within ninety (90) days after the effective date of these Orders, Respondent shall submit a detailed narrative report to Ohio EPA for review and approval containing the following:
  - i. a list of the members of a cross-functional team for the P2 Study, including the name of a designated team leader;
  - ii. an identification of the processes selected for study and the methods used to select the processes; and
  - iii. a description of the processes being studied, including types and quantities of raw materials used, waste generated (i.e., air emissions, hazardous waste, solid waste, wastewater), and the intermediate or final products.

The above items shall be completed following the guidance provided in Chapters 8 and 9 of the Manual.

- b. Within one hundred eighty (180) days after the effective date of these Orders, Respondent shall submit a detailed narrative report to Ohio EPA for review and approval containing the following:
  - i. an analysis of the process-related factors contributing to waste generation;
  - ii. a description of the specific pollution prevention opportunities identified; and
  - iii. a discussion of the approach used in screening and prioritizing pollution prevention opportunities for future implementation.

The above items shall be completed following the guidance provided in Chapters 11 and 12 of the Manual.

- c. Within two hundred seventy (270) days after the effective date of these Orders, Respondent shall submit a detailed narrative final report to Ohio EPA for review and approval containing the following:

- i. an evaluation of the cost considerations and feasibility analysis of the identified pollution prevention opportunities;
- ii. a discussion of those projects that have been eliminated as well as those that have been implemented, planned for implementation, or under consideration for possible implementation; and
- iii. a description of the other items bulleted in Table 7 of Chapter 15 of the Manual.

The above items shall be completed following the guidance provided in Chapters 13, 14 and 15 of the Manual.

- d. Within three hundred and thirty (330) days after the effective date of these Orders, Respondent shall submit an approvable detailed narrative final report to Ohio EPA, unless the report submitted to Ohio EPA pursuant to the above paragraph c is approved by Ohio EPA.

Ohio EPA shall provide Respondent with its comments and an indication of approval or disapproval of the reports submitted pursuant to this Order in a timely manner.

3. Within thirty (30) days of the completion and approval by Ohio EPA of the project identified in Order 2, Respondent shall submit documentation to Ohio EPA of the total cost of the P2 Study. If the total cost of the P2 Study is less than \$5,000, Respondent shall submit along with the final report identified in Order 2, and in the manner described in Order 1, an official check to Ohio EPA for the difference in cost between \$5,000 and the total cost of the P2 Study.

## **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 as defined in OAC Rule 3745-35-02(B)(1) for a corporation.

## **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 Respondent's operation of the facility specified in these Orders.

## **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 the Respondent.

## **IX. MODIFICATIONS**

These Orders may be modified by mutual 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 by these Orders, unless otherwise specified in writing, shall be addressed to :

Cleveland Local Air Agency  
1925 St. Clair Avenue NE  
Cleveland, Ohio 44114-2080  
Attention: Andrew D. Shroads, Enforcement Manager

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attention: Thomas Kalman, Supervisor, Enforcement Section

or to such persons and addresses as may hereinafter 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 the 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 the 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 unless said 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  
Director

\_\_\_\_\_  
Date

**IT IS SO AGREED:**

Hydraulic Press Brick Company

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Title