

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Mar-Zane, Inc.
PO Box 1585
Zanesville, Ohio 43702

: 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: [Signature] Date: 11-18-08

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Mar-Zane, 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 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 Plant 27 located at 1721 Pine Ave., SE, Warren, Trumbull County, Ohio ("Facility"). The Facility consists of a raw material handling operation and an asphalt plant. At the Facility, Respondent operates a 300 ton per hour drum-mix asphalt plant, derated to 265 tons per hour while producing slag mixes ("emissions unit P901"). This emissions unit is an "air contaminant source" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (W).

2. On March 9, 2006, Ohio EPA issued a synthetic minor permit-to-install ("PTI") for emissions unit P901 (PTI #02-20309). On November 3, 2006 a permit to operate

("PTO") was issued for this unit. The terms and conditions of the PTI and PTO require that the baghouse control system exhaust for particulate emissions ("PE"), for emissions unit P901, meet the requirements of 40 CFR Part 60, Subpart I [0.04 grain ("gr") of PE/dry standard cubic foot ("dscf") of exhaust gas] and achieve a 100% capture efficiency.

3. On August 17, 2006, Respondent conducted a stack test on emissions unit P901. On September 20, 2006, Ohio EPA received, from Respondent, the results of the stack test which were 0.042 gr of PE/dscf.

4. On October 10, 2006, Respondent conducted a retest for PE on emissions unit P901. The production rate, using used oil as the fuel, averaged 239 tons per hour during these tests. The results of the retest were 0.051 gr of PE/dscf, in violation of 40 CFR Part 60, Subpart I, Parts II.A.1. and II.A.2.a.i. of the terms and conditions of the PTI/PTO and ORC § 3704.05(A) and (C).

5. Between October 11th and October 14th, 2006, Respondent performed maintenance on the baghouse, replacing 27 bags and 440 rubber seals.

6. By letter dated November 20, 2006, Ohio EPA notified Respondent of the violations referenced in Finding No. 4 of these Orders.

7. On November 22, 2006, Respondent shut down this plant for the winter season. Prior to beginning operations on April 13, 2007, Respondent conducted baghouse inspections and replaced additional bags in the baghouse.

8. On June 20, 2007, Respondent conducted a stack test on emissions unit P901. The result of the test was 0.038 gr of PE/dscf.

9. By letter dated August 20, 2007, Ohio EPA issued a notice of compliance letter to Respondent for this Facility.

10. 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 be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of twelve thousand dollars (\$12,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within fourteen (14) 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 nine thousand six hundred dollars (\$9,600) 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

2. In lieu of paying the remaining two thousand four hundred dollars (\$2,400) of the civil penalty, Respondent shall, within fourteen (14) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$2,400 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 \$2,400. 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.

3. 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

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$2,400 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

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

Ohio Environmental Protection Agency
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: Dennis Bush

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
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 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

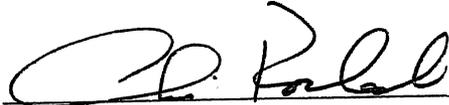
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Chris Korleski
Director

11/13/08
Date

IT IS SO AGREED:

Mar-Zane, Inc.



Signature

10-21-08
Date

WADE R HAMM
Printed or Typed Name

VICE PRESIDENT
Title