

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

2010 JAN 12 A 9:47

In the Matter of:

MGQ Aggregates, Inc. and
Maple Grove Materials, Inc.
P.O. Box 130
Old Fort, Ohio 44861

: 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:

Debra Lassiter Date: 1-12-11

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to MGQ Aggregates, Inc. and Maple Grove Materials, Inc. ("Respondents") 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 Respondents and successors in interest liable under Ohio law. No change in ownership of Respondents or of Respondent's facilities (as hereinafter identified) shall in any way alter Respondents' 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 MGQ Aggregates, Inc. owns and operates three limestone aggregate processing facilities located in Seneca County, Ohio. Respondent MGQ Aggregates, Inc.'s first facility (Facility ID 0374020222) is located at 2000 West County Road 42, Liberty Township, Ohio. Respondent MGQ Aggregates, Inc.'s second facility (Facility ID 0374000163) is located at 1525 West County Road 42, Liberty Township, Ohio. Respondent MGQ Aggregates, Inc.'s third facility (Facility ID 0374950001) is a portable plant located in Jackson Township, Ohio ("Millersville Facility"). Respondent

Maple Grove Materials, Inc. owns and operates an asphalt plant (Facility ID 0374020242) located at 2100 West County Road 42, Liberty Township, Ohio. Respondent MGQ Aggregates, Inc. and Respondent Maple Grove Materials, Inc. have a common owner.

2000 West County Road 42 Facility (Facility ID 0374020222)

2. On December 12, 2006 and March 24, 2008, Ohio EPA issued permit-to-install ("PTI") 03-17147 and permits-to-operate ("PTOs") for emissions units ("EUs") F001 and F002 at this Facility. On February 28, 2008, Ohio EPA issued PTI 03-17307 for EUs F004, F005, P001 and P901 at this Facility. On January 9, 2009, Ohio EPA issued permit-to-install-and-operate ("PTIO") number P0104315 for EUs F004, F005, P001 and P901. The terms and conditions of PTI 03-17147, PTI 03-17307, the PTOs, and PTIO P0104315 contain applicable emission limitations and operational control and reporting requirements for EUs F001 (roadways), F002 (storage piles), F004 (limestone processing), F005 (limestone load-out), P001 (product load-out) and P901 (product handling). The emissions units listed in PTI 03-17147, PTI 03-17307, the PTOs, and PTIO P0104315 are "air contaminant sources" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X).

3. On July 15, 2009, Ohio EPA conducted a compliance inspection at the Facility and determined that Respondent MGQ Aggregates, Inc. had, *inter alia*:

a. For EUs F001, F002, and F004, failed to maintain records of the date and reason any inspection was not performed, the date of each inspection where it was determined that it was necessary to implement control measures, the dates control measures were implemented, and on a calendar basis, the total number of days the control measures were implemented and, for EUs F001 and F002, the total number of days where snow and/or ice or precipitation was sufficient to not require control measures, in violation of the terms and conditions of PTI 03-17147, the PTOs for EUs F001 and F002, PTI 03-17307, P0104315, and ORC § 3704.05(C);

b. For EUs F005, P001, and P901, from February 28, 2008 until August 13, 2009, failed to perform daily checks for visible particulate emissions from the egress points on EU F005, the stack on EU P001, and the egress points and stacks serving the dried product storage bins on EU P901, and maintain records of these inspections in an operations log, in violation of PTI 03-17307, PTIO P0104315, and ORC § 3704.05(C);

c. For EU P901, from May 2009 until September 3, 2009, failed to have a certified visible emissions observer measure and record three, six-minute averages of the opacity of visible emissions to the atmosphere each day of operation of the limestone dryer and maintain these records for two years, in violation of PTI 03-

17307, PTIO P0104315, and ORC § 3704.05(C). On September 2, 2009, several of Respondent MGQ Aggregates, Inc.'s employees were certified in performing Method 9 observations and began maintaining records, therefore, abating this violation.

d. For EU P001 and P901, on July 15, 2009, failed to operate the limestone dryer and the fines product loading operation in compliance with the 0% opacity, as a six-minute average, limitation, in violation of PTI 03-17307, PTIO P0104315, and ORC § 3704.05(C);

e. For EU P901, from July 6, 2009 until May 1, 2010, modified the emissions unit by adding a crusher and, when the crusher was not being operated, a temporary storage pile, without first obtaining a PTI, in violation of OAC Rule 3745-31-02(A), PTI 03-17307, PTIO P0104315, and ORC § 3704.05(C) and (G);

f. For EUs F004, F005, P001, and P901, due to the installation of the crusher, failed to conduct performance testing in accordance with New Source Performance Standards ("NSPS"), 40 CFR Part 60 Subpart OOO "(NSPS OOO)" requirements within 180 days from the installation of the crusher, which was January 2, 2010 and has not performed such testing to the present;

g. From July 15, 2009 until July 17, 2009, failed to immediately report a malfunction of the airlock device located after the baghouse serving EUs P001 and P901 that resulted in emissions exceeding the no visible emissions limitation, in violation of OAC Rule 3745-15-06(B), PTI 03-17307, PTIO P0104315, and ORC § 3704.05(C) and (G);

h. For EUs F001 and F002, on July 15, 2009, failed to implement required control measures, in violation of PTI 03-17147, the PTOs for EUs F001 and F002, and ORC § 3704.05(C);

i. For EU P901, from March 28, 2008 until July 15, 2009, failed to notify Ohio EPA of the construction date and actual startup date of this emissions unit, in violation of PTI 03-17307 and ORC § 3704.05(C);

j. For EU P901, failed to conduct emissions testing for particulate matter within sixty days after achieving maximum production rate but no later than 180 days after initial startup, in violation of PTI 03-17307, PTIO P0104315, and ORC § 3704.05(C) (Initial startup of this unit occurred in January of 2007; therefore, testing should have been conducted by July of 2007. Respondent conducted testing on September 17, 2009);

k. For EU P901, from April of 2007 until September of 2009, failed to route an egress point on the roof of the product (fines) storage bin to the baghouse, in violation of PTI 03-17307, PTIO P0104315, and ORC § 3704.05(C).

l. Failed to install the voluntary restrictions listed in Respondent's permits for the purpose of avoiding Best Available Technology ("BAT"), in violation of PTI 03-17147, the PTOs for EUs F001 and F002, PTI 03-17307, PTIO P0104315, and ORC § 3704.05(C) (Specifically, EU P901 was to be contained within a building enclosure but none exists; for EU F005, the use of a partial enclosure and telescopic chutes have not been installed and utilized; and for EU F001 and F002, there was no evidence of control measures being implemented. Subsequently, by September 3, 2009, Respondent submitted documentation demonstrating that the telescopic chutes for EU F005 have been installed and are being utilized and, for EUs F001 and F002, control measures are being implemented.); and

m. From April of 2007 until February 28, 2008, installed and operated EUs F004, F005, P001, and P901 prior to issuance of the permit, in violation of OAC Rule 3745-31-02(A) and ORC § 3704.05(G).

4. By letter dated August 11, 2009, Ohio EPA notified Respondent MGQ Aggregates, Inc. of the violations referenced in Finding No. 3 of these Orders.

5. By letters dated August 17 and September 3, 2009, Respondent MGQ Aggregates, Inc. submitted a response to Ohio EPA's August 11, 2009 letter which indicated the violations referenced in Finding Nos. 3.a., 3.b., 3.c., 3.d., 3.g., 3.h., 3.i., 3.k. and 3.m. had been corrected.

6. On September 17, 2009, Respondent MGQ Aggregates, Inc. conducted the emissions testing for EU P901. EU P901 was operating at only 38.55% of the maximum operating rate. Respondent MGQ Aggregates, Inc.'s permit establishes an allowable particulate emission rate of 5.0 milligrams ("mg") per dry standard cubic meter ("dscm") for EU P901. The actual emissions rate during this test was 171.7 mg/dscm, in violation of PTI 03-17307, PTIO P0104315, and ORC § 3704.05(C). On May 1, 2010, Respondent submitted a permit modification which requested a new emissions limit and testing schedule for this EU. Upon approval, this permit modification will address the violation of the emissions limitation.

7. On May 1, 2010, Respondent MGQ Aggregates, Inc. submitted permit modification applications to Ohio EPA which, upon approval, will abate the violations referenced in Finding Nos. 3.e. and 3.l.

1525 West County Road 42 Facility (Facility ID 0374000163)

8. On April 26, 2001, Ohio EPA issued PTI 03-13494 for EU F006 (aggregate rail load-out system) at this Facility. On May 31, 2001, Ohio EPA issued PTI 03-13486 for EU F002 (1,100 tons per hour aggregate processing plant). On July 28, 2005 Ohio EPA issued PTI 03-16190 for EU F001 (a 550 tons per hour lime kiln feed processing plant). On May 18, 2006 and March 24, 2008, Ohio EPA issued PTI 03-17053 and PTOs for EUs F003 (mineral extraction), F004 (storage piles) and F005 (roadways) at this Facility. The terms and conditions of these PTIs and PTOs contain applicable emission limitations and operational control and reporting requirements for EUs F001, F002, F003, F004, F005, and F006. The emissions units listed in these PTIs and PTOs are "air contaminant sources" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X).

9. On July 15, 2009, Ohio EPA conducted a compliance inspection at the Facility and determined that Respondent MGQ Aggregates, Inc. had, *inter alia*:

a. For EUs F001, F002, F003, F004 and F005, failed to maintain records of the date and reason any inspection was not performed, the date of each inspection where it was determined that it was necessary to implement control measures, the dates control measures were implemented, and on a calendar basis, the total number of days the control measures were implemented, in violation of the terms and conditions of PTI 03-13486, PTI 03-16190, PTI 03-17053, the PTO for EUs F003, F004 and F005, and ORC § 3704.05(C);

b. For EUs F002, F003, and F006, the following records were not available at the time of the inspection: monthly records of the material processed through the primary crusher of EU F002 and the year-to-date tons of material processed through this unit; monthly blast and mineral extraction records for EU F003; and for EU F006, monthly records of the total tons per month of aggregate loaded and the annual, year-to-date, tons of aggregate loaded for each calendar month, in violation of PTI 03-13486, PTI 03-17053, PTI 03-13494, the PTO for EU F003, and ORC § 3704.05(C); and

c. Failed to timely submit the 2008 4th quarter deviation report and annual report that were due by January 31, 2009, in violation of PTI 03-13486, PTI 03-13494, PTI 03-16190, PTI 03-17053, the PTO for EUs F003, F004 and F005, and ORC § 3704.05(C) (These reports were submitted to Ohio EPA on July 28, 2009, therefore, abating this violation).

10. By letter dated August 25, 2009, Ohio EPA notified Respondent MGQ Aggregates, Inc. of the violations referenced in Finding No. 9 of these Orders.

11. By letter dated September 18, 2009, Respondent MGQ Aggregates, Inc. submitted a response to Ohio EPA's August 25, 2009 letter which outlined the corrections to the violations referenced in Finding Nos. 9.a. and 9.b.

Millersville Facility (Facility ID 0374950001)

12. On September 23, 2004, Ohio EPA issued PTI 03-16112 for EUs F001, F002, F003 and P001 at this Facility. The terms and conditions of PTI 03-16112 contain applicable emission limitations and operational control and reporting requirements for EUs F001 (roadways and parking areas), F002 (storage piles), F003 (portable aggregate processing plant), and P001 (portable diesel engine). The emissions units listed in PTI 03-16112 are "air contaminant sources" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X).

13. On July 8, 2009, Ohio EPA conducted a compliance inspection at the Facility and determined that Respondent MGQ Aggregates, Inc. had, *inter alia*:

a. For EUs F001, F002 and F003, failed to maintain records of the date and reason any inspection was not performed, the date of each inspection where it was determined that it was necessary to implement control measures, the dates control measures were implemented, and on a calendar basis, the total number of days the control measures were implemented, in violation of the terms and conditions of PTI 03-16112 and ORC § 3704.05(C);

b. For EU F003, failed to timely conduct emissions testing for all transfer points, screens and crushers within 90 days after final issuance of PTI 03-16112, in violation of PTI 03-16112 and ORC § 3704.05(C) (Final issuance of PTI 03-16112 was on September 23, 2004; therefore, testing should have been conducted by December 23, 2004. On November 11, 2009, Respondent conducted the emissions testing in accordance with NSPS OOO and PTI 03-16112.);

c. For EU F003, failed to timely submit complete annual reports identifying the amount of material processed through the feeder of this EU for the years 2004 through 2007, in violation of PTI 03-16112 and ORC § 3704.05(C) (The first report was due by January 31, 2005. The reports were revised and resubmitted to Ohio EPA on September 9, 2009.); and

d. For EU P001, from September 23, 2004 until January 6, 2010, failed to maintain records of the type and quantity of fuel burned in this EU, fuel supplier certification records, and monthly nitrogen oxides emissions records, in violation of PTI 03-16112 and ORC § 3704.05(C) (The monthly nitrogen oxide emissions records started being kept by Respondent in early 2008; however, the other records were not maintained until January 6, 2010).

14. By letter dated August 25, 2009, Ohio EPA notified Respondent MGQ Aggregates, Inc. of the violations referenced in Finding No. 13 of these Orders.

15. By letter dated September 9, 2009, Respondent MGQ Aggregates, Inc. submitted a response to Ohio EPA's August 25, 2009 letter, which outlined the corrections to the violations referenced in Finding Nos. 13.a., 13.c., and 13.d.

2100 West County Road 42 Facility (Facility ID 0374020242)

16. On March 19, 2001, Respondent Maple Grove Materials, Inc. submitted a PTI application for EU P902. On June 13, 2008, Respondent Maple Grove Materials, Inc. submitted a revised PTIO for EU P902 (300 tons per hour drum mix asphalt plant with baghouse). This emissions unit is an "air contaminant source" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X).

17. On August 5, 2009, Ohio EPA conducted a compliance inspection at the Facility and determined that Respondent Maple Grove Materials, Inc., from September of 2002, 180 days after initial startup (March of 2002), until August 20, 2009, had failed to conduct particulate emission testing for EU P902 in accordance with 40 CFR Part 60 Subpart I.

18. 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. Within ninety (90) days from the effective date of these Orders, Respondents shall submit a complete and approvable PTI application to Ohio EPA for the 2000 West County Road 42 Facility. The application shall include the derating of emissions unit P901 to 25 tons per hour (TPH), in order to exempt the emissions unit from the requirements of 40 CFR, Part 60, Subpart OOO. Until the PTI is issued by the Ohio EPA and the derated production capacity is established for emissions unit P901, Respondent shall maintain the following daily records for emissions unit P901: (a) the total amount of stone processed, in tons; (b) the actual hours of operation; and (c) the average production rate, in TPH.

2. Respondents shall pay the amount of one hundred twenty-five thousand dollars (\$125,000) 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 one hundred thousand dollars (\$100,000) 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
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

3. In lieu of paying the remaining twenty-five thousand dollars (\$25,000) of the civil penalty, Respondents shall, within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$25,000 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondents shall tender an official check made payable to "Treasurer, State of Ohio" for \$25,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents and Fund 5CD0, to the above-stated address.

4. 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
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

5. Should Respondents fail to fund the SEP within the required time frame set forth in Order 3, Respondents shall immediately pay to Ohio EPA \$25,000 of the civil penalty in accordance with the procedures in Order 2.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have 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 Respondents of the obligations that have not been performed, in which case Respondents 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 Respondents to Ohio EPA and shall be signed by a responsible official of each Respondent. For the purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice president or his duly authorized representative.

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 Respondents.

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 Respondents.

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 Environmental Protection Agency
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attn: Mark Budge

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 Respondents 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, Respondents consent 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 Respondents' liability for the violations specifically cited herein.

Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondents hereby waive 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 Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

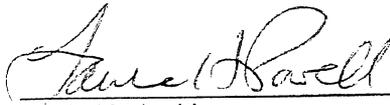
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



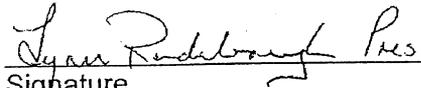
Chris Korleski
Director

1-6/11

Date

AGREED:

MGQ Aggregates, Inc.



Signature

1-4-11

Date

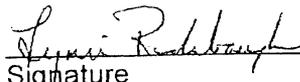
Lynn Radabaugh

Printed or Typed Name

President

Title

Maple Grove Materials, Inc.



Signature

1-4-11

Date

Lynn Radabaugh

Printed or Typed Name

Vice President

Title