

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.  
OCT - 1 2000  
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Great Lakes Crushing Ltd.  
35650 Lakeland Boulevard  
Eastlake, Ohio 44095

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:  
:

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:

I. JURISDICTION

By: [Signature] Date: Oct. 1, 08

These Director's Final Findings and Orders ("Orders") are issued to Great Lakes Crushing Ltd. ("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 facilities (as hereinafter identified) 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. The City of Cleveland, Division of Air Quality ("CDAQ") and Akron Regional Air Quality Management District ("ARAQMD") act as agents of Ohio EPA for the Division of Air Pollution Control in Cuyahoga and Summit counties, respectively.

2. Respondent owns and operates two portable crushing plants (both identified by Ohio EPA Facility ID: 0243011330) with an office located at 35650 Lakeland Boulevard, Eastlake, Lake County, Ohio. The first plant ("Plant #1") is identified as Portable Rock Crushing Plant, and it consists of three emissions units: load-in and load-out of storage piles and wind erosion (emissions unit F001), unpaved roadways and parking areas

(emissions unit F002), and recycled concrete and asphalt crushing, screening, and material handling operations (emissions unit F003). The second plant ("Plant #2") is identified as Portable Track Ranger Plant, and it also consists of three emissions units: recycled concrete and asphalt crushing, screening, and material handling operations (emissions unit F004), unpaved roadways and parking areas (emissions unit F005), and load-in and load-out of storage piles and wind erosion (emissions unit F006). Emissions units F001 through F006 are each an "air contaminant source," as defined in OAC Rule 3745-15-01(C) and (W).

3. Ohio Administrative Code ("OAC") Rule 3745-31-02 requires that a person not allow the installation or modification of an air contaminant source without first applying for and obtaining a PTI, except otherwise provided by rule or law. OAC Rule 3745-35-02 prohibits any person from operating an air contaminant source unless a PTO has been applied for and obtained, except as provided by rule and law.

4. OAC Rule 3745-35-02 requires any owner or operator of an air contaminant source not subject to OAC Rule 3745-77-02 to apply for and obtain a permit to operate ("PTO") prior to operating any air contaminant source, except as otherwise provided by rule or law.

5. 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 and conditions. ORC § 3704.05(G) prohibits a person from violating any order, rule, or determination of the Director that was issued, adopted, or made under ORC Chapter 3704. OAC Chapters 3745-31 and 3745-35 were adopted by the Director pursuant to ORC Chapter 3704, and any PTI or PTO issued by the Director is issued under ORC § 3704.03(F) and (G).

**Plant #1:**

6. On April 24, 2000, CDAQ responded to a citizen complaint regarding fugitive dust resulting from Respondent's crushing operations at 25200 Sprague Road, Olmsted Falls, Cuyahoga County, Ohio. CDAQ confirmed the presence of fugitive dust at the location upon arrival at 1:30 P.M. Subsequent investigation indicated that Respondent had installed and was operating Plant #1 without applying for and obtaining a Permit to Install ("PTI") and a Permit to Operate ("PTO") from Ohio EPA, in violation of OAC Rules 3745-31-02(A) and 3745-35-02(A), respectively, and also ORC § 3704.05(G).

7. On May 26, 2000, CDAQ sent a Notice of Violation ("NOV") to Respondent. The NOV informed Respondent of the above violations and requested submittal of a PTI application. The PTI application was received by Ohio EPA on June 27, 2000, and it was indicated in the application that Plant #1 was installed and started operation in 1994. PTI # 02-14132 was issued for Plant #1 on November 21, 2000.

8. On April 20, 2006, ARAQMD received a complaint concerning excessive fugitive dust from Plant #1 operations at 8530 North Boyle Parkway, Twinsburg, Ohio. On April 21, 2006, ARAQMD representative inspected the site and found Plant #1 not in operation upon arrival. The complainant indicated that the Sheriff was called out yesterday afternoon, and the crusher was shut down and the dust emissions stopped.

9. On May 2, 2006, ARAQMD representatives re-inspected Plant #1 and witnessed significant visible emissions from the crushers and the transfer points. Operations were halted after ARAQMD representatives arrived and initiated visible emissions readings. The on-site contact, Mr. Robert Sole, indicated that a screen was broken at the secondary crusher and he found a broken water line. ARAQMD waited about one hour for repairs, and after operations were restarted, there were no visible emissions from the secondary crushers and transfer points.

10. On May 2, May 3, and May 8, 2006, a representative from ARAQMD took visible emission readings of the primary crusher or secondary crusher at Plant #1 (Ohio EPA emissions unit F003). Opacity readings during the three days exceeded the allowable limit of ten (10) percent opacity, as a six-minute average, in PTI # 02-14132, in violation of ORC § 3704.05(C). A summary of the above opacity readings is shown in the following table:

Date	Observation Period	6-Minute Average Opacities (%)	Individual Opacity Reading Range (%)
5/2/2006	11:36 A.M. - 11:57 A.M.	15, 16 and 26	0-40
5/3/2006	10:00 A.M. - 10:30 A.M.	12, 18, 18, 18 and 11	0-30
5/8/2006	2:20 P.M. - 2:44 P.M.	17, 23, 30 and 31	5-80

11. On May 2, 2006, Respondent violated its PTI terms and conditions for emissions unit F003 by not providing enough water to ensure compliance with the best available technology requirements, which constitute a violation of ORC § 3704.05(C). Per the PTI, Respondent shall employ best available control measures that are sufficient to minimize or eliminate visible emissions of fugitive dust. The water sprays located on top of the crusher shall be operating at all time while the crusher is in operation. Also, water sprays shall be operated at all other points necessary to ensure compliance with the visible emission limitation.

12. On May 5, 2006, Respondent's consultant confirmed to ARAQMD by a phone call, followed by a letter on May 8, that several modifications had been made to ensure that Plant #1 was operating within limitations given in the issued PTI. These modifications included increasing the amount of water being applied as a dust suppressant, adding three

additional spray bars, increasing the use of the tanker truck, and attaching a physical barrier to the primary crusher.

13. On May 23, 2006, ARAQMD sent a NOV to Respondent. The NOV outlined the violations noted above.

**Plant #2:**

14. On April 23, 2007, CDAQ received a complaint concerning fugitive dust emissions resulting from Respondent's Plant #2 located at East 116<sup>th</sup> Street and Buckeye Road in Cleveland, Ohio. On April 24, 2007, a CDAQ inspector witnessed visible emissions of fugitive dust from the crusher and from the earth moving equipment operating on site. Respondent's President, Mr. Mark Belich, was present at the time of inspection and he indicated that high wind was the cause of the dust issues on April 23, 2007, and that Respondent will order a water truck to control the dust. CDAQ referred this case to Ohio EPA, Division of Air Pollution Control, Northeast District Office ("NEDO") for follow-up. Subsequent investigations indicated that Plant #2 had been acquired by Respondent in 2007, and that Respondent had not obtained a PTI and PTO after the transfer of ownership, in violation of OAC Rules 3745-31-02 and 3745-35-02, respectively, and also ORC § 3704.05(G).

15. On May 15, 2007, NEDO sent a NOV to Respondent. The NOV noted the PTI and PTO violations in regards to Plant #2 and requested submittal of the necessary PTI and PTO applications. The PTI application was received by NEDO on June 5, 2007, and it was indicated in the application that Plant #2 was installed and started operation on January 16, 2007 at the East 116<sup>th</sup> Street and Buckeye Road site. PTI #02-22664 was issued for Plant #2 on July 17, 2007, and an administrative modification of the PTI was issued on September 11, 2007. Respondent submitted PTO applications to NEDO on August 30, 2007.

16. The Director has given consideration to, and based on his determination on, evidence relating on technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to people of the state to 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 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 nine thousand and 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 and four hundred dollars (\$2,400) of the civil penalty, Respondent 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 \$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 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 Respondent pursuant to these Orders shall be addressed to:

ARAQMD  
Citicenter-Suite 904  
146 South High Street  
Akron, Ohio 44308  
Attn: Frank Markunas

and to:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Thomas Kalman, Manager, 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 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**

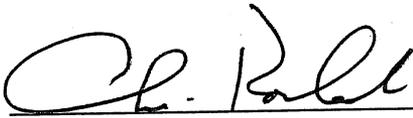
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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:**

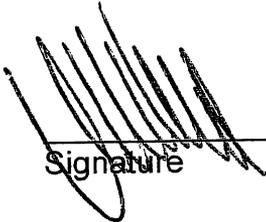
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Chris Korleski  
Director

9/24/08  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**Great Lakes Crushing Ltd.**

  
\_\_\_\_\_  
Signature

8/22/08  
\_\_\_\_\_  
Date

Mark Belich  
\_\_\_\_\_  
Printed or Typed Name

Managing Member  
\_\_\_\_\_  
Title