

BEFORE THE

DEC 19 2006

OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

National Lime & Stone Company  
551 Lake Cascades Parkway  
Findlay, Ohio 45839

:  
:  
:

Director's Final Finding  
and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to National Lime & Stone 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 identified in Finding 1 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 stone and lime production facilities located on North Patterson Street in Carey (Wyandot County), Ohio ("Stone Plant")(Facility ID 0388000004) and ("Lime Plant")(Facility ID 0388000043).

2. ORC § 3704.05(C) prohibits any person from violating the terms and conditions of any permit issued by the Director of Ohio EPA.

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.

By: Dorey Jacobs Date: 12-19-06

3. ORC § 3704.05(J)(2) prohibits the violation of any term and condition of a Title V permit.

4. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA.

### **STONE PLANT**

5. At the Stone Plant, Respondent mines and produces broken limestone and various aggregate products. Respondent employs crushers, screens, and conveyors to transfer the broken limestone between processes and out of the quarry. The limestone is screened for various sizes and placed onto storage piles. Some of the limestone is washed for sand and agricultural lime production and some of it is dried in a fluidized bed dryer.

6. As a result of the activities described above, the Carey facility has a number of "air contaminant sources" as defined by Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (W) and "new sources" as defined by OAC Rule 3745-31-01. Specifically, the Stone Plant roadways and parking areas (emissions unit F001); the Stone Plant storage piles (emissions unit F002); blasting and overburden removal (emissions unit F006); Dorr-Oliver Dryer (emissions unit P005); pelletized limestone dryer (emissions unit P023); pelletizing plant, crushing, screening, and material handling (emissions unit P024); dried stone plant - course stone loadouts (emissions unit P903); dried stone plant - fine stone loadouts (emissions unit P904); dried stone plant - crushing, screening, material handling (emissions unit P905); 400 hp, no. 2 oil-fired portable crusher engine, 600 hp, no. 2 oil-fired portable crusher, and 600 hp, no. 2 oil-fired portable primary crusher engine (emissions unit P001); 947 hp, diesel fired portable generator (emissions unit Z001); and a 519 hp, diesel-fired portable generator (emissions unit Z002). A Title V permit was issued for the emissions units at Respondent's Carey facility on December 31, 2002.

### **Roadways and Parking Areas (Emissions Unit F001)**

7. The Title V permit for Respondent's Stone Plant (Facility ID: 03-88-00-0004), effective on January 14, 2003, requires that Respondent have no visible particulate emissions from the paved roadways except for 6 minutes during any 60-minute observation period. On June 25, 2003, Ohio EPA, Northwest District Office ("NWDO") conducted Method 22 visible particulate emission observations of the Respondent's paved roadways. Visible particulate emissions from paved roadways exceeded a duration of 6 minutes during an observation period of 15 minutes at the scale area. This is a violation of OAC Rule 3745-17-07(B)(4), the terms and conditions

of the Respondent's Title V permit, and ORC § 3704.05(A), (C), (G) and (J)(2). By a letter dated August 25, 2003 to Ohio EPA, Respondent indicated that it began to fully implement control measures immediately after the violation was discovered.

8. The Title V permit for Respondent's Carey facility (Facility ID: 03-88-00-0004), effective on January 14, 2003, requires that Respondent perform inspections of each of the roadways and parking areas in accordance with a schedule detailed in its Title V permit to determine the need for implementing reasonable available control measures ("RACM"). A review of the Respondent's records for emissions unit F001 showed that from January 14 through May 11, 2003 (date of compliance), Respondent failed to perform inspections of the paved and unpaved roadways on a daily basis, in violation of the Respondent's Title V permit and ORC § 3704.05(C) and (J)(2).

9. OAC Rule 3745-17-08(B) requires an owner or operator of any air contaminant source to employ RACM for the purpose of minimizing or eliminating visible particulate emissions of fugitive dust. On June 25, 2003, NWDO observed the street sweeper in the parking lot beside the scale house. The street sweeper was emitting significant amounts of dust from the holding tank exhaust and the operator continued to sweep the roads. Information obtained from Respondent during the inspection revealed that a full dust bin was the cause of the problem. Respondent's failure to fully employ RACM to minimize or eliminate visible particulate emissions of fugitive dust is a violation of OAC Rule 3745-17-08(B) and ORC § 3704.05(G). Respondent quickly corrected the problem soon after violation was discovered.

10. The Title V permit for Respondent's Carey facility (Facility ID: 03-88-00-0004), effective on January 14, 2003, requires that plant vehicles not exceed 10 miles per hour ("mph") when traveling on certain plant roadways. During the inspection on June 25, 2003, NWDO observed and estimated that plant vehicles were traveling on the plant roadway connecting Patterson Street and County Road 16 at rates exceeding 10 mph. This is a violation of Respondent's Title V permit and ORC § 3704.05(C) and (J)(2).

11. OAC Rule 3745-17-08(B)(9) requires any person operating a fugitive dust source in an Appendix A area to promptly remove earth or other material deposited by trucks onto paved streets. On June 25, 2003, Ohio EPA conducted Method 22 visible particulate emission observations of Patterson Street where Respondent's vehicles cross between the Stone Plant and the Lime Plant. Visible particulate emissions from the roadway exceeded 6 minutes during an observation period of 15 minutes and was the result of Respondent's vehicles tracking dirt onto the road, in violation of its Title V permit, OAC Rules 3745-17-07(B)(4) and 3745-17-08(B)(9), and ORC § 3704.05(C), (G) and (J)(2). By a letter dated August 25, 2003 to Ohio EPA, Respondent indicated that it began to employ dust suppressants including water to control visible particulate emissions.

**Stone Plant Storage Piles (Emissions Unit F002)**

12. The Title V permit for Respondent's Stone Plant (Facility ID: 03-88-00-0004), effective on January 14, 2003, requires that Respondent submit quarterly deviation reports that identify any of the following occurrences: each day during which an inspection was not performed by the required frequency, and the circumstance when a control measure that was to be implemented as a result of an inspection, was not implemented. From April 30, 2003 (deadline) to November 25, 2003 (date report submitted), Respondent failed to timely submit a quarterly deviation report for the first quarter of 2003 for emissions unit F002, in violation of Respondent's Title V permit and ORC § 3704.05(C) and (J)(2).

**Blasting and Overburden Removal (Emissions Unit F006)**

13. The Title V permit for Respondent's Stone Plant (Facility ID: 03-88-00-0004), effective on January 14, 2003, requires that Respondent submit quarterly deviation reports that identify any of the following occurrences: each day during which an inspection was not performed by the required frequency, and the circumstance when a control measure that was to be implemented as a result of an inspection, was not implemented. From April 30, 2003 (deadline) to November 25, 2003 (date report submitted), Respondent failed to timely submit a quarterly deviation report for the first quarter of 2003 for emissions unit F006, in violation of Respondent's Title V permit and ORC § 3704.05(C) and (J)(2).

**Dorr-Oliver Dryer (Emissions Unit P005)**

14. The Title V permit for Respondent's Stone Plant (Facility ID: 03-88-00-0004), effective on January 14, 2003, requires that stack testing of emissions unit P005 be completed within 6 months of Title V issuance (by July 14, 2003). From July 14, 2003 to November 18, 2003 (date stack test was performed), Respondent failed to perform the stack test for emissions unit P005 within the timeframe established by Respondent's Title V permit, in violation of the Title V permit and ORC § 3704.05(C) and (J)(2).

15. The Title V permit for Respondent's Stone Plant (Facility ID: 03-88-00-0004), effective on January 14, 2003, requires that the pressure drop across the scrubber shall be read and recorded twice per day. From January 2003 through November 2003, Respondent had 41 days when either one or no readings were taken and recorded. Failure to monitor the pressure drop and maintain proper records is a violation of the monitoring and record-keeping requirements specified in the Respondent's Title V permit, and ORC § 3704.05(C) and (J)(2).

**Pelletized Limestone Dryer (Emissions Unit P023)**

16. The Title V permit for Respondent's Stone Plant (Facility ID: 03-88-00-0004), effective on January 14, 2003, requires that stack testing of emissions unit P023 be completed within 3 months of Title V permit issuance (by April 14, 2003). From April 14, 2003 to November 18, 2003, Respondent failed to perform the stack test for emissions unit P023 within the timeframe established by Respondent's Title V permit, in violation of the Title V permit and ORC § 3704.05(C) and (J)(2).

17. The Title V permit for Respondent's Stone Plant (Facility ID: 03-88-00-0004), effective on January 14, 2003, requires that carbon monoxide ("CO") emissions from emissions unit P023 not exceed the emission limitation of 1.43 pounds per hour ("lbs/hr"). The stack test performed on November 18, 2003 revealed that the actual CO emissions rate was 2.92 lbs/hr. In a Notice of Violation ("NOV") letter dated February 14, 2004, Ohio EPA requested Respondent to submit a compliance plan by March 5, 2004; however, no compliance plan was submitted by Respondent. As of November 18, 2003 and continuing until the present, emissions unit P023 continues to exceed the emission limitation for CO, in violation of Respondent's Title V permit and ORC § 3704.05(C) and (J)(2).

**Pelletizing Plant: Crushing, Screening, and Material Handling (Emissions Unit P024)**

18. The Title V permit for Respondent's Stone Plant (Facility ID: 03-88-00-0004), effective on January 14, 2003, requires that stack testing of emissions unit P024 be completed within 3 months of Title V permit issuance (by April 14, 2003). From April 14, 2003 to November 18, 2003, Respondent failed to perform the stack test for emissions unit P024 within the timeframe established by Respondent's Title V permit, in violation of the Title V permit and ORC § 3704.05(C) and (J)(2).

19. The Title V permit for Respondent's Stone Plant (Facility ID: 03-88-00-0004), effective on January 14, 2003, requires Respondent to submit quarterly deviation reports that identify any of the following occurrences: each day during which an inspection was not performed by the required frequency, and the circumstance when a control measure that was to be implemented as a result of an inspection, was not implemented. From April 30, 2003 (deadline) to July 30, 2003 (date report submitted), Respondent failed to timely submit a quarterly deviation report for the first quarter of 2003 for emissions unit P024, in violation of Respondent's Title V permit and ORC § 3704.05(C) and (J)(2).

**Dried Stone Plant – Coarse Stone Loadouts (Emissions Unit P903)**

20. The Title V permit for Respondent's Stone Plant (Facility ID: 03-88-00-0004), effective on January 14, 2003, requires Respondent to perform and record daily checks, when the emissions unit is operating and when the weather conditions allow, for any visible particulate emissions from the baghouse serving this emissions unit. From January 14, 2003 to November 18, 2003 (date of compliance), Respondent had failed to perform and record daily checks of the baghouse for emissions unit P903, in violation of Respondent's Title V permit and ORC § 3704.05(C) and (J)(2).

**Dried Stone Plant – Fine Stone Loadouts (Emissions Unit P904)**

21. OAC Rule 3745-17-07(B)(1) requires that visible particulate emissions from any fugitive dust source located in an Appendix A area of OAC Rule 3745-17-08(B) shall not exceed twenty percent opacity as a three-minute average. On November 18, 2003, Ohio EPA observed visible particulate emissions of fugitive dust from emissions unit P904 that exceeded the limitation over a period of 34 minutes, with the highest average opacity from the unit being 27.1%, as a three-minute average. The exceedances of the 20% opacity limitation for visible particulate emissions is a violation of OAC Rule 3745-17-07(B)(1) and ORC § 3704.05(A) and (G). Respondent immediately corrected the above-referenced violation by implementing control measures, including lengthening the hose to reduce drop height, adding a cloth shroud to help contain the fugitive dust, and keeping the building access door closed during product removal.

22. The Title V permit for Respondent's Stone Plant (Facility ID: 03-88-00-0004), effective on January 14, 2003, requires Respondent to submit quarterly deviation reports that identify any of the following occurrences: each day during which an inspection was not performed by the required frequency, and the circumstance when a control measure that was to be implemented as a result of an inspection, was not implemented. From April 30, 2003 (deadline) to July 20, 2003 (date report submitted), Respondent failed to submit a quarterly deviation reports for the first quarter 2003 for emissions unit P904, in violation of Respondent's Title V permit and ORC § 3704.05(C) and (J)(2).

**Dried Stone Plant – Crushing, Screening, Materials Handling (Emissions Unit P905)**

23. The Title V permit for Respondent's Stone Plant (Facility ID: 03-88-00-0004), effective on January 14, 2003, requires Respondent to submit quarterly deviation reports that identify any of the following occurrences: each day during which an inspection was not performed by the required frequency, and the circumstance when a control measure that was to be implemented as a result of an inspection, was not implemented. From April 30, 2003 to July 30, 2003, Respondent failed to submit a quarterly deviation report for the first quarter of 2003 for emissions unit P905, in violation of Respondent's Title V permit and ORC § 3704.05(C) and (J)(2).

~~24. The Title V permit for Respondent's Stone Plant (Facility ID: 03-88-00-0004), effective on January 14, 2003, requires that stack testing of emissions unit P905 be performed within 3 months of Title V permit issuance (by April 14, 2003). From April 14, 2003 to November 18, 2003 (date stack test performed), Respondent had not performed the stack test for emissions unit P905 within the timeframe established by Respondent's Title V permit, in violation of the Title V permit and ORC § 3704.05(C) and (J)(2).~~

**Three Portable Crusher Engines (one 400 HP and two 600 HP - Emissions Unit P001), and Two Portable Generators (Emissions Units Z001 and Z002)**

25. Respondent uses, as part of the ongoing operations at the Stone Plant, three portable crusher engines (emissions unit P001) and two portable generators (emissions units Z001 and Z002). Emissions units P001, Z001 and Z002 are each "an air contaminant source" as defined in OAC Rules 3745-31-01(I) and 3745-15-01(C) and (W).

26. Pursuant to OAC Rule 3745-31-02(A), no person shall install a new source of air pollutants or allow the modification of an air contaminant source, without first obtaining a permit to install ("PTI") from the Director of Ohio EPA, unless otherwise specified by rule or law. OAC Rule 3745-35-02(A) prohibits any person from operating an air contaminant source unless a Permit to Operate ("PTO") has been applied for and obtained, except as provided by rule or law.

27. OAC Rule 3745-31-01(SS) defines a "major stationary source" as any stationary source or any group of stationary sources in an attainment area for a given pollutant that emits or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the Clean Air Act. Respondent's Stone Plant is a major stationary source due to the fact that it emits or has the potential to emit over 250 tons per year of particulate matter, a regulated pollutant under the Clean Air Act.

28. Pursuant to OAC Rule 3745-31-13(C), as effective on April 12, 1996, any major air source constructed or modified in an area designated as an attainment area must meet the Prevention of Significant Deterioration ("PSD") program requirements contained in OAC Rules 3745-31-10 through 3745-31-20 (as effective on April 12, 1996). Respondent's Stone Plant is located in an area that has been designated as an attainment area.

29. Respondent installed emissions units Z001 and Z002 in October 1998 and began operation in February 1999. Information obtained from Respondent indicates that these two generators are being used as emergency back-up generators. Since there are no PTIs obtained for emissions units Z001 and Z002, Respondent is in violation of OAC Rule 3745-31-02 and ORC § 3704.05(G). Furthermore, Respondent failed to submit a Title V permit application to Ohio EPA within 12 months of commencement of operation of emissions units Z001 and Z002 to incorporate such emissions units into a Title V permit, in violation of OAC Rule 3745-77-04(D) and ORC § 3704.05(G) and (J)(2).

30. On October 14, 2002, Respondent submitted a PTI application for emissions unit P001 located at the Stone Plant. The PTI application indicated that emissions unit P001 was installed in October 1998 and began operation in February 1999. Since there was no PTI for emissions unit P001 obtained by Respondent prior to October 14, 2001, Respondent was in violation of OAC Rule 3745-31-02 and ORC § 3704.05(G). Furthermore, Respondent failed to submit a Title V permit application to Ohio EPA within 12 months of commencement of operation of emissions unit P001 to incorporate such emissions unit into a Title V permit, in violation of OAC Rule 3745-77-04(D) and ORC § 3704.05(G) and (J)(2).

31. On October 18, 2002, a NOV letter was issued to Respondent regarding the PTI application submitted pertaining to emissions unit P001 at the Stone Plant. As articulated in the NOV, NWDO determined that this PTI application was incomplete. In this NOV, NWDO cited Respondent with a violation of OAC Rule 3745-31-13(C) for its failure to undergo major new source review requirements and obtain a PSD PTI for emissions unit P001. A synthetic minor PTI application for emissions unit P001 was submitted, and a synthetic minor PTI was issued by Ohio EPA on March 4, 2004.

## **LIME PLANT**

32. At the Lime Plant, Respondent produces calcified lime for the glass industry and lime hydrate. As a result of the activity described above, the Lime Plant has a number of "air contaminant sources" as defined by OAC Rule 3745-15-01(C) and (W) and "new sources" as defined by OAC Rule 3745-31-01. Specifically, paved and unpaved roadways and parking areas (emissions unit F001), lime plant transfer equipment and loadout (emissions unit F005), secondary crushing, screening and material handling (emissions unit F008), coal-fired and/or natural gas-fired calcimatic kiln #1 (emissions unit P003), coal-fired and/or natural-gas fired calcimatic kiln #2 (emissions unit P004), lime hydrator #1 (emissions unit P007), lime hydrator #2 (emissions unit P017), hydrated lime grinder (emissions unit P019), lime cooler #2 (emissions unit P020), and lime cooler #1 (emissions unit P021). A Title V permit was issued for the emissions units at Respondent's Lime Plant on May 21, 2003.

### **Paved and Unpaved Roadways and Parking Areas (Emissions Unit F001)**

33. The Title V permit for Respondent's Lime Plant (Facility ID: 03-88-00-0043), effective on May 21, 2003, requires Respondent to have no visible particulate emissions from the paved roadways except for 6 minutes during any 60-minute observation period. On June 25, 2003, NWDO conducted Method 22 visible particulate emission observations of Respondent's paved roadways (emissions unit F001). Visible particulate emissions from paved roadways located next to the scale house exceeded 20 minutes during an observation period of 34 minutes. This is a violation of OAC Rule 3745-17-07(B)(4), the terms and conditions of Respondent's Title V permit, and ORC § 3704.05(A), (C), (G) and (J)(2). Respondent immediately corrected the above-referenced violation by sweeping and apply water to its paved roads.

34. The Title V permit for Respondent's Lime Plant (Facility ID: 03-88-00-0043), effective on May 21, 2003, requires Respondent to perform inspections of each of the roadways and parking areas in accordance with a schedule detailed in Respondent's Title V permit. From May 21, 2003 to June 12, 2003, Respondent failed to perform inspections of the paved and unpaved roadways for emissions unit F001 on a daily basis, in violation of the Respondent's Title V permit and ORC § 3704.05(C) and (J)(2).

**Finished Product Unloading Operations (Emissions Unit F005)**

35. The Title V permit for Respondent's Lime Plant (Facility ID: 03-88-00-0043), effective on May 21, 2003, requires that Respondent record daily visible emission checks of baghouse serving emissions unit F005 and keep these records available for inspection. An inspection of the daily logs for emissions unit F005 maintained by Respondent at the Lime Plant on December 17, 2003, revealed that Respondent began recording the results of visible emission checks on October 1, 2003. However, Respondent failed to perform emission checks and have records available for inspection for the period of time between the effective date of Respondent's Title V permit, May 21, 2003, and October 1, 2003. This is in violation of the Title V permit and ORC § 3704.05(C) and (J)(2) for failure to maintain records in accordance with section A.III of the Title V permit.

**Crushing, Screening and Material Handling (Emissions Unit F008)**

36. The Title V permit for Respondent's Lime Plant (Facility ID: 03-88-00-0043), effective on May 21, 2003, requires that Respondent perform and record the results of daily visible emission checks of the baghouse serving emissions unit F008. An inspection of the daily logs for emissions unit F008 maintained by Respondent at the Lime Plant on April 14, 2004 revealed that Respondent began recording visible emission checks on October 1, 2003. However, Respondent failed to perform and record emission checks for the period of time between the effective date of Respondent's Title V permit, May 21, 2003, and October 1, 2003. This is in violation of the Title V permit and ORC § 3704.05(C) and (J)(2) for failure to maintain records in accordance with section A.III of the Title V permit.

**Calcimatic Lime Kiln #1 (Emissions Unit P003)**

37. OAC Rule 3745-17-07(A)(1) requires that visible particulate emissions from any stack shall not exceed 20 percent opacity as a six-minute average, unless otherwise provided by rule or law. On June 26, 2003, NWDO observed visible particulate emissions from the stack of the control equipment of emissions unit P003, that exceeded the 20 percent opacity limitation, as a six-minute average, for a twelve-minute observation period. Failure to comply with the 20 percent opacity limitation for visible particulate emissions is a violation of OAC Rule 3745-17-07(A)(1) and ORC § 3704.05(A), (C) and (G). According to Respondent, a shive on the motor for a shaker assembly on one compartment of the baghouse failed and overloaded the capacities of

other compartments causing visible emissions from the stack serving this emissions unit. At a later time on June 26, 2003, Respondent made necessary repair to rectify this problem.

38. The Title V permit for Respondent's Lime Plant (Facility ID: 03-88-00-0043), effective on May 21, 2003, requires that stack testing of emissions unit P003 be completed within 3 months of Title V permit issuance (by August 21, 2003). From August 21, 2003 to December 17, 2003 (date stack test performed), Respondent failed to perform the stack test for emissions unit P003 within the timeframe established by Respondent's Title V permit, in violation of the Title V permit and ORC § 3704.05(C) and (J)(2).

**Lime Hydrator #1 (Emissions Unit P007)**

39. The Title V permit for Respondent's Lime Plant (Facility ID: 03-88-00-0043), effective on May 21, 2003, requires that stack testing of emissions unit P007 be completed within 3 months of Title V permit issuance (by August 21, 2003). From August 21, 2003 to December 17, 2003 (date stack test performed), Respondent failed to perform the stack test for emissions unit P003 within the timeframe established by Respondent's Title V permit, in violation of the Title V permit and ORC § 3704.05(C) and (J)(2).

**Lime Hydrator #2 (Emissions Unit P017)**

40. The Title V permit for Respondent's Lime Plant (Facility ID: 03-88-00-0043), effective on May 21, 2003, requires that stack testing of emissions unit P017 be completed within 3 months of Title V permit issuance (by August 21, 2003). As of the NWDO inspection of August 11, 2003, Respondent had failed to perform the stack test, including the submission of an Intent-to-Test form for emissions unit P017. Failure to perform the stack test within the timeframe established by Respondent's Title V permit is in violation of the Title V permit and ORC § 3704.05(C) and (J)(2). Information from Respondent's October 2, 2003 letter to Ohio EPA indicated that Respondent shut down this emissions unit permanently due to its age.

**Hydrated Lime Grinder (Emissions Unit P019)**

41. The Title V permit for Respondent's Lime Plant (Facility ID: 03-88-00-0043), effective on May 21, 2003, requires that stack testing of emissions unit P019 be completed within 3 months of Title V permit issuance (by August 21, 2003). From August 21, 2003 to January 8, 2004 (date stack test performed), Respondent failed to perform the stack test for emissions unit P019 within the timeframe established by Respondent's Title V permit, in violation of the Title V permit and ORC § 3704.05(C) and (J)(2).

### **Lime Cooler #2 (Emissions Unit P020)**

42. The Title V permit for Respondent's Lime Plant (Facility ID: 03-88-00-0043), effective on May 21, 2003, requires that stack testing of emissions unit P020 be performed within 3 months of Title V permit issuance (by August 21, 2003). From August 21, 2003 to December 30, 2003, Respondent failed to perform the stack test for emissions unit P020 within the timeframe established by Respondent's Title V permit, in violation of the Title V permit and ORC § 3704.05(C) and (J)(2).

43. OAC Rule 3745-15-06(B)(1) requires an owner or operator of any air contaminant source to immediately notify Ohio EPA when such source or its control equipment malfunctions such that it results in a violation of any applicable emission limitation. On June 25, 2003, Respondent contacted NWDO and indicated that a shive on the motor that adjusts the air flow for a specific baghouse compartment had broken. Information concerning possible emission violations due to this malfunction were not available. The Respondent discovered the problem on June 20, 2003, and immediately rectified the problem. Respondent's failure to immediately notify the Ohio EPA of this control equipment malfunction is in violation of OAC Rule 3745-15-06(B)(1) and ORC § 3704.05(C) and (G).

### **Lime Cooler #1 (Emissions Unit P021)**

44. The Title V permit for Respondent's Lime Plant (Facility ID: 03-88-00-0043), effective on May 21, 2003, requires that stack testing of emissions unit P021 be performed within 3 months of Title V permit issuance (by August 21, 2003). From August 21, 2003 to December 17, 2003, Respondent failed to perform the stack test for emissions unit P021 within the timeframe established by Respondent's Title V permit, in violation of the Title V permit and ORC § 3704.05(C) and (J)(2).

## **V. ORDERS**

The Director hereby issues the following Orders:

1. By not later than ninety (90) days after the effective date of these Orders, Respondent shall conduct, or have conducted, stack tests for emissions unit P023, using the appropriate test methods specified in the Title V permit, to establish new allowable emission limitations for CO and volatile organic compounds ("VOCs") (if necessary) that will be used for PTI and Title V modifications. By not later than thirty (30) days prior to the proposed test date(s), Respondent shall submit to Ohio EPA a completed notification of Intent-to-Test ("ITT") form for the stack testing of this emissions unit. The ITT notification form shall describe in detail the proposed test methods and procedures, operating parameters of emissions unit P023, the time(s) and

date(s) of the tests, and the person(s) who will be conducting the tests. Failure to submit such notification for review and approval prior to the tests may result in Ohio EPA's refusal to accept the result of the emission tests.

Personnel from Ohio EPA shall be permitted to witness the tests, examine the testing equipment, and acquire data and information necessary to ensure that the operation of emissions unit P023 and the testing procedures provide a valid characterization of the emissions from emissions unit P023 and/or the performance of the control equipment.

A comprehensive written report on the results of the stack tests shall be signed by the person or persons responsible for the tests and submitted to Ohio EPA within thirty (30) days following completion of the tests. Respondent may request additional time for the submittal of the written report, where warranted, with prior approval from Ohio EPA.

2. By not later than July 14, 2007, Respondent shall submit to Ohio EPA a PTI modification application for emissions unit P023 to reflect new emission limitations for CO and VOC (if necessary).

3. By not later than July 14, 2007, Respondent shall submit to Ohio EPA a Title V permit application to reflect new emission limitations for CO and VOC (if necessary) for emissions unit P023 and to include emissions unit P001.

4. Pursuant to ORC § 3704.06, Respondent is assessed a civil penalty in the amount of one hundred forty-six thousand and seven hundred dollars (\$146,700) in settlement of Ohio EPA's claims for civil penalties. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of twenty-four thousand and forty-four dollars (\$24,044) of the total penalty amount. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$24,044. 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

A copy of the check 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

5. In lieu of paying the remaining one hundred twenty-two thousand six hundred and fifty-six dollars (\$122,656) of the civil penalty, Respondent shall fund the supplemental environmentally beneficial projects ("SEPs") identified in Orders 6 and 7. Of the \$122,656, \$29,340 shall be used to fund the project in Order 6, and \$93,316 shall be used to fund the project in Order 7. In the event Respondent defaults or otherwise fails to complete any of the projects as specified in Orders 6 and 7, the \$29,340 for the project in Order 6 and/or the \$93,316 for the project in Order 7, whichever is (are) applicable, shall immediately become due and payable to Ohio EPA. Such payment shall be made by an official check made payable to "Treasurer, State of Ohio" and sent to Brenda Case, or her successor, together with a letter identifying the Respondent, to the above-stated address. A copy of the check shall be sent to James A. Orlemann, or his successor, at the above-stated address.

6. Respondent shall fund a SEP by making a contribution in the amount of twenty-nine thousand three hundred and forty dollars (\$29,340) to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall make payment within thirty (30) days after the effective date of these Orders by an official check made payable to "Treasurer, State of Ohio" for \$29,340. The official check shall specify that such monies are to be deposited into Fund 5CD established by Ohio EPA for the Clean Diesel School Bus Program. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to the above-stated address. A copy of this check shall also be sent to James A. Orlemann, or his successor, at the above-stated address.

7. Respondent shall fund a SEP by spending at least ninety-three thousand three hundred and sixteen dollars (\$93,316) to reconfigure part of its Carey, Ohio limestone aggregate processing operation to reduce fugitive particulate emissions. At present, limestone aggregates are produced in the quarry pit and finished products are hauled about 2.1 miles (one way) and across two public roads by 70-ton GVW trucks to the rail and customer truck load-out areas. The reconfigured operation shall incorporate a conveyor system that will carry the limestone aggregates from the primary crusher, located on the quarry floor, through an underground culvert being installed under County Road 16, to a surge pile. The limestone aggregates shall then be transported by conveyor to an aggregate processing plant that will be located at the rail and truck load-out areas. Fugitive particulate emissions from the conveyors and equipment shall be controlled by the high moisture content inherent in the aggregate and by the use of wet suppression on an as-needed basis. Implementation of this SEP will provide an estimated actual fugitive particulate emission reduction of 54.58 tons per year from the elimination of trucking alone. The estimated cost of the project is in excess of three million dollars.

8. The SEP in Order 7 shall be completed in accordance with the following schedule:

<u>Milestone</u>	<u>Completion Date</u>
a. cease operation of the existing aggregate operation in the C-2 quarry by	March 2007
b. install the new conveyor system by	December 2007
c. cease the trucking of the remaining aggregates (approximately 800,000 tons) from the existing C-2 processing area to the new load-out area by	December 2008

9. Unless otherwise directed by Ohio EPA, Respondent shall submit a written progress report to Ohio EPA by not later than thirty (30) days after the end of each calendar quarter beginning with the quarter ending on March 31, 2007, and stopping with the quarter ending on December 31, 2008. The reports shall describe the status of the work and describe any difficulties encountered. Also, the reports shall provide the completion date for the milestones identified in Order 8.

10. Installation and operation of the reconfigured part of the Carey, Ohio limestone aggregate processing operation shall be in accordance with the requirements of OAC Rules 3745-31-02 and 3745-77-02, and any PTI or Title V permit.

11. By not later than January 1, 2008, Respondent shall submit documentation to Ohio EPA showing that the total installed cost of the SEP in Order 7 exceeded \$93,316.

## 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.

#### **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 the Respondent pursuant to these Orders shall be addressed to:

Division of Air Pollution Control  
Northwest District Office  
347 North Dunbridge Road  
Bowling Green, Ohio 43402  
Attention: Don Waltermeyer

and to:

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

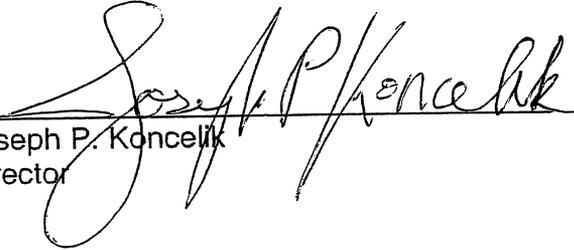
#### **XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that she or he is fully authorized to enter into these Orders and to legally bind such party to this document.

**IT IS SO ORDERED AND AGREED:**

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Ohio Environmental Protection Agency

  
\_\_\_\_\_  
Joseph P. Koncek  
Director

12-14-06  
Date

**IT IS SO AGREED:**

National Lime & Stone Company

  
\_\_\_\_\_  
Signature

12/8/06  
Date

Kevin D. Hahn  
Printed or Typed Name

Vice President -- Administration  
Title