OHIO E.P.A.
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**BEFORE THE**

**OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

| | | |
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| Caraustar Mill Group, Inc. | : | Director's Final Findings |
| Rittman Paperboard | : | and Orders |
| 100 Industrial Avenue | : | |
| Rittman, Ohio 44270 | : | |

## PREAMBLE

It is agreed by the parties hereto as follows:

## I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Caraustar Mill Group, Inc., Rittman Paperboard ("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 Respondent's facility (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 regulations promulgated thereunder.

## IV. FINDINGS

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3704.03 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA has determined the following findings:

1. Respondent is a manufacturing company with its principal place of business located at 100 Industrial Avenue, Wayne County, Rittman, Ohio. At this facility, Respondent recycles waste paper into paperboard for cartons. In this process, Respondent operates two coal-fired boilers (Ohio EPA emissions unit identification numbers B001 and B003) to supply steam to operate a paper machine and other plant processes. The facility is a "Title V source," as defined in Ohio Administrative Code ("OAC") Rule 3745-77-01(LL), and is subject to the requirements of ORC Chapter 3704 and OAC Chapter 3745-77.

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.
By: [illegible] Date: 9-28-06

2. Emissions units B001 and B003 emit, in part, products of combustion that include sulfur dioxide ("$SO_2$"), particulate emissions ("PE"), particulate matter ("PM"), and particulate matter with an aerodynamic diameter of 10 microns or less ("$PM_{10}$"), which are defined as "air pollutants" or "air contaminants" in Ohio Administrative Code ("OAC") Rule 3745-15-01(C). Additionally, emissions units B001 and B003 are "air contaminant sources" as defined in OAC Rules 3745-31-01(I) and 3745-15-01(C) and (W).

3. OAC Rule 3745-77-02(A), in part, states that the owner or operator of a Title V source shall not operate such source after the date that a timely and complete Title V permit application is required, unless such application has been timely submitted or the source is in compliance with a valid Title V permit.

4. OAC Rule 3745-77-04(E) requires that a Title V permit renewal application be filed no earlier than eighteen months and no later than six months prior to the expiration of any Title V permit.

5. OAC Rule 3745-77-06(A), in part, states that if the owner or operator of Title V source submits a timely and complete application for permit renewal, the failure to have a Title V permit is not a violation of this Chapter until the Director takes final action on the application.

6. OAC Rule 3745-77-07(A)(1), in part, requires that a Title V permit include emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of issuance.

7. OAC Rule 3745-77-07(A)(3), in part, requires that a Title V permit contain emission monitoring and analysis procedures or test methods sufficient to yield reliable representative data to determine the source's compliance with the permit and applicable emission limitations.

8. OAC Rule 3745-77-01(H), in part, defines an applicable requirement as any standard or other requirement in the approved State Implementation Plan ("SIP").

9. OAC Rule 3745-78-02 (A) requires, by June 15, 1994 for calendar year 1993, and April 15 of each year thereafter, the owners or operators of sources subject to the Title V permit program to submit fee emission reports ("FERs") and pay fees on the facility's actual emissions of certain air pollutants including $SO_2$.

10. OAC Chapter 3745-17 is part of Ohio's approved SIP. OAC Rule 3745-17-07(A) limits, in part, the visible emissions from any stack to less than or equal to twenty percent opacity, as a six-minute average, except as otherwise allowed by law. OAC Rule 3745-17-07(C), in part, allows the owner or operator subject to OAC Rule 3745-17-07(A) (i.e., the control of visible particulate emissions) to request a visible emission limitation that is equivalent to the average opacity determined during a particulate emissions compliance, if the Director of Ohio EPA determines that the particulate emissions unit demonstrates compliance with an applicable particulate emission limitation but fails to comply with the opacity limitation set by OAC Rule 3745-17-07(A)(1) (i.e., twenty percent opacity).

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

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

13. ORC § 3704.05(J)(2), in part, prohibits any person from violating any applicable requirement of a Title V permit or any permit condition, except for an emergency as defined in 40 CFR 70.6(g), and prohibits any person from violating any filing requirement of the Title V permit program.

14. ORC § 3704.05(K), in part, states that no person shall operate a source that is required to obtain a Title V permit unless a Title V permit has been issued authorizing operation of the source or unless a complete and timely application for the issuance, renewal, or modification of a Title V permit for the source has been submitted to the Director.

15. ORC § 3704.06(C), in part, provides that any person violating ORC § 3704.05 shall pay a civil penalty of not more than $25,000 for each day of each violation.

16. On June 8, 2000, Ohio EPA issued a final Title V permit for Respondent's facility (Ohio EPA facility identification number 02-85-02-0076). The permit's expiration date of June 8, 2005, was given in the final issuance cover page of the permit, as well as a statement that Title V permit renewal applications are to be filed no earlier than eighteen months and no later than six months prior to the expiration of any Title V permit. Pursuant to OAC Rule 3745-17-07(C), the Title V permit contained an equivalent visible emission limitation of 35 percent opacity. To assure reasonable continuous compliance with the opacity limitation, the Title V permit required Respondent to operate and maintain equipment to continuously monitor (i.e., continuous opacity monitoring systems ["COMS"]) and record the opacities emitted from emissions units B001 and B003 . Additionally, the permit required that Respondent maintain certification letters from Ohio EPA documenting that the COMS had been certified in accordance with the requirements of 40 CFR, Part 60, Appendix B, Performance Specification 1 ("PS1").

17. Respondent failed to submit an application to renew its Title V permit to Ohio EPA at least six months prior to the permit expiration date (i.e., December 10, 2004), in violation of OAC Rule 3745-77-04(E) and ORC § 3704.05(G) and (J)(2). Thus, Respondent lost the application shield protection provided by OAC Rule 3745-77-06(A).

18. On February 15, 2005, Ohio EPA issued a Notice of Violation ("NOV") letter to Respondent, citing it with violations of OAC Rules 3745-77-04(E) and 3745-77-02(A).

19. Respondent submitted a complete and signed Title V permit renewal application to Ohio EPA on February 23, 2005. Ohio EPA issued a preliminary proposed Title V permit renewal on September 13, 2005, a proposed Title V permit renewal on June 15, 2006 and a final Title V permit renewal was issued on August 7, 2006.

20. Respondent's Title V permit expired on June 8, 2005. Respondent continues to operate a Title V source without a Title V permit or a timely filed and complete renewal application, in violation of OAC Rule 3745-77-02(A) and ORC § 3704.05(G) and (K).

21. On May 15, 2001, Respondent informed NEDO, via telephone, that it would be installing a new stack and a new COMS in 2001 for emissions unit B001.

22. On May 30, 2001, NEDO sent Respondent an electronic mail stating that the proposed new stack and COMS would have to meet the requirements of 40 CFR 60, Appendix B, PS1, regarding testing and reporting that would need to be submitted to Ohio EPA in order to receive a certification letter.

23. On November 19, 2001, Respondent installed the new stack and COMS on emissions unit B001 and began operation.

24. On March 5, 2002, Ohio EPA sent a NOV to Respondent. The NOV informed Respondent that operating without a certified COMS for emissions unit B001 was a violation of its Title V permit and that the opacity data the new COMS was gathering may not be valid. The NOV requested Respondent to submit, within 21 days of receipt of the NOV, a copy of the required PS1 report, including all raw data collected during the testing, to both NEDO and Ohio EPA's Central Office.

25. On March 15, 2002, Respondent replied to the March 5, 2002, NOV. Specifically, Respondent submitted emissions unit B001's COMS manufacturer's certificate of conformance, the instruction manual and the calibration report for November 12, 2001 through March 17, 2002 (i.e., parts of the information required by PS1).

26. On October 8, 2002, Ohio EPA sent Respondent a deficiency letter, requesting that additional data, required by 40 CFR, Part 60, Appendix B, PS1 for certification, be submitted before emissions unit B001's COMS could be certified.

27. On December 11, 2002, Respondent sent a response to the October 8, 2002, deficiency letter. However, the response did not include the required on-site calibration error check, the system response time check, and the averaging period check.

28. On December 31, 2002, Ohio EPA left Respondent a telephone message stating that the required on-site checks mentioned in Finding 29, were missing or could not be located. Additionally, on this same day a second NOV was mailed by NEDO informing Respondent that the December 11, 2002, PS1 report was incomplete and that the facility was in violation of the requirements of its Title V permit. Specifically, Respondent was not complying with the requirement to operate a certified COMS. Therefore, the data collected by the new COMS and reported in Respondent's quarterly excess emissions reports was not considered to be valid.

29. On January 10, 2003, Respondent submitted additional documents for the new COMS installed on emissions unit B001.

30. On January 22, 2003, Ohio EPA contacted Respondent by telephone and requested the raw data from the 7-day drift check. Moreover, Respondent was informed that based on Ohio EPA's calculations, the six-minute averaging period check did not pass the drift test. Respondent was requested to resubmit the results once the COMS had been repaired and retested.

31. On January 23, 2003, a third NOV was sent to Respondent regarding the failure to have emissions unit B001's COMS certified. The NOV again detailed the information that was mentioned in the January 22, 2003, telephone conversation and told Respondent that in order to return to compliance the required information should be submitted within 30 days of the receipt of the NOV.

32. On March 5, 2003, Respondent submitted the information requested and answered questions asked in the January 23, 2003, NOV.

33. On March 17, 2003, Ohio EPA sent Respondent a certification letter stating that emissions unit B001's COMS had met the requirements of 40 CFR 60, Appendix B, PS1 with a certification date of March 4, 2003.

34. Respondent failed to timely certify emissions unit B001's COMS once installed as required by Respondent's Title V permit, in violation of ORC § 3704.05(C) and (J)(2). This violation occurred from the date of installation (i.e., November 19, 2001) and continued until the COMS was certified (March 4, 2003).

35. On May 5, 2003, Respondent met with NEDO. During this meeting NEDO pointed out that Respondent was calculating its annual $SO_2$ emission rates for the FERs using an inaccurate emission factor. NEDO asked Respondent to resubmit a 2002 FER, by May 31, 2003, that reflected the actual annual $SO_2$ emissions. Actual $SO_2$ emission rates were to be recalculated using the percent sulfur determined from the coal analyses. Additionally, Respondent was request to resubmit FERs from 1997 through 2001 with the $SO_2$ emission rates calculated using the percent sulfur from the monthly composite samples from the actual coal burned.

36. On September 19, 2003, Respondent submitted the revised FER for 2002, which was accepted by NEDO.

37. On October 14, 2003, NEDO sent a warning letter to Respondent for failure to properly report $SO_2$ emissions on the facility's FERs and associated emission inventory statement ("EIS"). Specifically, since 1997 Respondent had estimated $SO_2$ annual emissions for the FERs and EIS using an inaccurate emission factor instead of using the actual sulfur content of the coal burned in emissions units B001, B002 and B003. Prior to 1997 Respondent had estimated the annual $SO_2$ emissions using the quantity and sulfur content, determined by the monthly coal composite samples, of the coal burned in these emissions units. Respondent is required by its operating permits to monitor and record the quantity and sulfur content of the coal used. By using an emission factor instead of using actual data, Respondent greatly under-reported the facility's $SO_2$ emissions for the years 1997 through 2001. Respondent was requested to revise its 1997 through 2001 FERs within 30 days of the receipt of warning letter. Therefore, Respondent failed to timely report the actual annual $SO_2$ emissions as required by OAC Rule 3745-78-02(A), in violation of ORC § 3704.05(G) and (J)(2).

38. On November 20, 2003, NEDO received Respondent's reply to the October 14, 2003, warning letter. The reply stated that Respondent had revised, under protest, the FERs for the years 1997 through 2001.

39. On December 17, 2003, Ohio EPA invoiced Respondent for the difference between the original FER invoices and the revised FERs. On January 12, 2004, Ohio EPA received a check for $318,564 from Respondent for the invoice sent on December 17, 2003.

40. On August 10, 2006, NEDO received Respondent's 2006 second quarter excess emission report. The report indicated that for 12.7 percent of the time that both emissions unit B003 and the COM operated in the quarter, excluding the times provided by rule, emissions unit B003 operated with an opacity reading, determined by the COM, greater than the 20 percent opacity limitation , in violation of Respondent's PTI and Title V permit, OAC Rule 3745-17-07(A), and ORC § 3704.05(A), (C),(G) and (J)(2).

41. On September 8, 2006, NEDO sent Respondent a NOV for the violations identified in Finding 40.

42. 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. Respondent shall pay the amount of nine thousand and four hundred dollars ($9,400) in settlement of Ohio EPA's claim 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 seven thousand five hundred and twenty dollars ($7,520) 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 one thousand eight hundred eighty dollars ($1,880) of 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 one thousand eight hundred and eighty dollars ($1,880) to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for $1,880. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, 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 timeframe set forth in Order 2, Respondent shall immediately pay to Ohio EPA $1,880 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, 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 Respondent pursuant to these Orders shall be addressed to:

Ohio EPA, Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087
Attention: Dennis Bush

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, 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 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 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

Joseph P. Koncelik
Director

9/20/06
Date

**IT IS SO AGREED:**

Caraustar Mill Group, Inc., Rittman Paperboard

By Timothy L Cook

Date 9/11/06

Printed or Typed Name
Timothy L. Cook

Title Plant Manager