

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION III
 1650 Arch Street
 Philadelphia, Pennsylvania 19103**

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|------------------------------------|---|---|
| In the Matter of: | : | |
| | : | |
| Lehigh White Cement Company | : | U.S. EPA Docket No. CWA-03-2020-0138DN |
| 200 Hokes Mill Road | : | |
| York, PA 17404 | : | |
| | : | |
| Respondent. | : | ADMINISTRATIVE ORDER ON CONSENT |
| | : | |
| Hokes Mill Plant, | : | |
| | : | |
| Facility. | : | |
| | : | |
| | : | |
| | : | |

I. PRELIMINARY STATEMENT

1. The United States Environmental Protection Agency (“EPA”) has made the following findings of fact and issues this Administrative Order on Consent (“Order”) pursuant to the authority vested in the Administrator of EPA under Section 309(a) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1319(a). This authority has been delegated by the Administrator to the Regional Administrator of EPA Region III, and further delegated to the Director of the Enforcement & Compliance Division, Region III.

2. Lehigh White Cement Company (“Respondent”) has agreed to the issuance of this Order.

II. JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant (other than dredged or fill material) from a point source into waters of the United States, except in compliance with a permit issued pursuant to the NPDES program under Section 402 of the Act, 33 U.S.C. § 1342.
5. Section 402(a) of the Act, 33 U.S.C. § 1342(a) provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit. Section 402(b) of the Act, 33 U.S.C. § 1342(b) provides that the Administrator may authorize a state to issue NPDES permits.
6. Section 309(a) of the Act, 33 U.S.C. § 1319(a), provides, inter alia, that whenever on the basis of any information available to him the Administrator finds that any person is in violation of any condition or limitation implementing certain sections of the Act, he shall issue an order requiring such person to comply with such section or requirement. Section 402(b) of the Act, 33 U.S.C. § 1342(b) provides that the Administrator may authorize a state to issue NPDES permits.

III. GENERAL PROVISIONS

7. For the purpose of this proceeding only, Respondent admits each jurisdictional allegation set forth in this Order.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Order or any action relating to enforcement of this Order.
9. Except as provided in Paragraph 7 above, Respondent neither admits nor denies the factual allegations and conclusions of law set forth in this Order.
10. Issuance of this Order is intended to address the violations alleged herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Further, EPA reserves any existing rights and remedies available to it under the CWA, 33 U.S.C. § 1311, et seq., the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction. Further, EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Order, following its Effective Date (as defined below).
11. This Order does not constitute a waiver or modification of the terms or conditions of the

Respondent's NPDES Permit. Compliance with the terms and conditions of this Order does not relieve Respondent of its obligations to comply with any applicable federal, state, or local law, regulation or permit.

12. EPA reserves all existing inspection authority otherwise available to EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, or pursuant to any other statute or law.
13. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
14. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.
15. By signing this Order, Respondent acknowledges that this Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Order does not contain any confidential business information or personally identifiable information from Respondent.
16. The undersigned representative of Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Order and to execute and legally bind the party.
17. All of the terms and conditions of the Order together comprise one agreement, and each of the terms and conditions are to be read in conjunction with all the other terms and conditions. In the event that this Order, or one or more of its terms and conditions is held invalid, or is not executed by all of the signatories in identical form, or is not approved in such form by the Regional Administrator or his designee, then the entire Order shall be null and void.
18. The provisions of this Order shall be deemed satisfied when:
 - a. Respondent has satisfactorily completed the obligations set forth in Paragraphs 84 and 85 below; and
 - b. Respondent receives written notice from EPA that Respondent has demonstrated, to the satisfaction of EPA, that Respondent has satisfactorily completed the terms of this Order. EPA's written notice will state that this Order is terminated.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

19. Section 402(p) of the Act, 33 U.S.C. § 1342(p), and 40 C.F.R. sections 122.2 and 122.26 provide that, with some exceptions not pertinent here, storm water dischargers are “point sources” subject to NPDES permitting requirements under Section 402(a) of the Act, 33 U.S.C. § 1342(a).
20. “Storm water” is defined as “storm water runoff, snow melt runoff and surface runoff and drainage.” 40 C.F.R. § 122.26(b)(13).
21. “Storm water discharge associated with industrial activity means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing processing or raw materials storage areas at an industrial plant” and “includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads . . . used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters . . . ; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products” 40 CFR § 122.26(b)(14).
22. An NPDES permit is required for discharges associated with industrial activity. CWA Section 403(p), 33 U.S.C. § 1342(p); 40 C.F.R. § 122.26(a), (c); 40 C.F.R. § 122.21.
23. Pursuant to 40 C.F.R. § 122.26(b)(14)(ii), facilities classified as, inter alia, Standard Industrial Classification Group 32, including Industry Group 3241 (Cement, Hydraulic) are engaged in “industrial activity” within the meaning of Section 402(p) of the Act and 40 C.F.R. § 122.
24. Dischargers of storm water associated with industrial activities to waters of the United States are required to seek NPDES permit coverage. 40 C.F.R. § 122.26(c).
25. The Commonwealth of Pennsylvania has been approved by EPA to administer the NPDES program in the Commonwealth of Pennsylvania.
26. Pursuant to the authority of the Act, the NPDES program approval, and the Pennsylvania Clean Streams Law 35 P.S. § 691.1 et seq., Pennsylvania issued to the Respondent NPDES Permit No. PA0010375, Authorization to Discharge Under the National Pollutant Discharge Elimination System Discharge Requirements for Industrial Wastewater Facilities (“the Permit”). The Permit was effective January 1, 2018 and will expire on December 31, 2022.
27. NPDES Permit No. PA0010375 authorizes the Respondent to discharge stormwater associated with industrial activities to waters of the United States through Outfall No. 002, in accordance with the conditions of the permit.

28. The Permit requires the Respondent to implement and maintain certain Best Management Practices (“BMP”) to prevent pollution and minimize the exposure of industrial activities to precipitation and runoff. Permit, Part C.II.C.
29. The Permit requires Respondent to develop and implement a Preparedness, Prevention, and Contingency Plan (“PPC Plan”) to minimize the potential for leaks, spills or releases that may be exposed to stormwater. Permit, Part C.II.C.
30. Lehigh White Cement Company, as a corporation, is a “person” within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5) and 40 C.F.R. § 122.2.
31. At all times relevant to this Order, upon information and belief, Respondent was the owner and/or operator of a facility known as the Hokes Mill Plant or the Lehigh White Cement Company York Pennsylvania Plant (“Facility”), located in York, Pennsylvania.
32. The Facility is used to manufacture cement, and the industrial activities occurring onsite include raw and waste material storage, vehicle maintenance, equipment storage, and chemical storage.
33. At the Facility, the Respondent has been at all relevant times engaged in industrial activities that discharge stormwater from a point source to an unnamed tributary of Codorus Creek. Codorus Creek is tributary of the Susquehanna River, both of which are “waters of the United States” within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
34. On June 19, 2019 representatives of EPA Region III and EPA contractors from PG Environmental, along with the Pennsylvania Department of Environmental Protection (collectively “the Inspection Team”) conducted an inspection at the Facility (hereinafter, “the inspection”).
35. During the inspection, the Inspection Team observed the conditions at the Facility.
36. Thereafter, the Inspection Team reviewed records pertaining to inspections, training, monitoring, and maintenance activities which were provided on July 10, 2019.
37. The Inspection Team prepared an inspection report from the inspection (“the Inspection Report”), which included multiple observations concerning Respondent’s non-compliance with the requirements of the Permit.
38. EPA sent a copy of the Inspection Report to Respondent on or about August 1, 2019.

Findings Related to Respondent’s Failure to Sample for pH in Accordance with the Requirements of 40 CFR Part 136

39. The allegations of Paragraphs 1 through 38 of this Order are incorporated herein by

reference.

40. The Permit requires that test procedures (methods) for the analysis of pollutants or pollutant parameters be those approved under 40 CFR Part 136 or required under 40 CFR Chapter I, Subchapters N or O. Permit, Part A.III.A.4.b.
41. 40 CFR § 136.3 Table II requires that the maximum allowable holding time for a pH sample cannot exceed fifteen (15) minutes and thus samples for pH must be analyzed within 15 minutes of sample collection.
42. Based on the review of the discharge monitoring report, EPA saw a sample was collected on July 24, 2018 and then analyzed on July 26, 2018. Respondent failed to analyze the July 24, 2018 sample for pH within 15 minutes of sample collection.
43. Respondent violated the Act and Permit, Part A.III.A.4.b., by failing to analyze the sample for pH within 15 minutes of sample collection in accordance with 40 CFR Part 136.

Findings Related to Respondent's Failure to Discharge in Accordance with the Requirements of the Permit as a Result of Failure to Maintain Systems of Treatment and Control – Sump Pump

44. The allegations of Paragraphs 1 through 43 of this Order are incorporated herein by reference.
45. Sections 301 and 402(p) of the Act, 33 U.S.C. § 1311 and § 1342(p), together require that industrial stormwater discharges to point sources be in accordance with the requirements of an industrial stormwater permit.
46. The Permit requires that industrial stormwater from the Facility discharge through Outfall 002. Permit Part C.II.A.
47. The Permit requires that Respondent properly operate and maintain all facilities and systems of treatment and control used to achieve compliance with the terms and conditions of the Permit. Permit Part B.I.D.
48. As the Inspection Team observed on June 19, 2019, as a result of the failed sump pump, stormwater collected in a large pool on a concrete basin adjacent to Lemon Street, mixed with raw limestone, and overflowed onto Lemon Street into the curb and gutter line.
49. At the time of the Inspection, Respondent failed to maintain in proper operating condition the sump pump used to pump collected stormwater to a location where it is used in the cement manufacturing process.
50. Respondent's failure to properly operate and maintain all stormwater controls used to achieve compliance with the terms and conditions of the Permit, and its discharge of

industrial stormwater in a manner not authorized by the Permit, are violations of the Permit and the Act.

Findings Related to Respondent's Failure to Discharge in Accordance with the Requirements of the Permit as a Result of Failing to Maintain Systems of Treatment and Control – Sock Filters

51. The allegations of Paragraphs 1 through 50 of this Order are incorporated herein by reference.
52. Sections 301 and 402(p) of the Act, 33 U.S.C. § 1311 and § 1342(p), together require that industrial stormwater discharges to point sources be in accordance with the requirements of an industrial stormwater permit.
53. The Permit requires that industrial stormwater from the Facility discharge through Outfall 002. Permit Part C.II.A.
54. The Permit requires that Respondent properly operate and maintain all facilities and systems of treatment and control used to achieve compliance with the terms and conditions of the Permit. Permit Part B.I.D.
55. At the time of the Inspection, Respondent failed to maintain the sock filters along the eastern fence running adjacent to Hokes Mill Road as indicated by inundation and accumulation of sediment over and along the sock filters which the Inspection Team observed. Multiple sock filters also appeared to be torn.
56. During the Inspection, EPA also observed erosion under the improperly maintained sock filters leading to sediment accumulation in proximity to the storm drain inlet on Hokes Mill Road, indicating that the Facility had discharged stormwater from a location other than Outfall 002.
57. Respondent's failure to properly operate and maintain all stormwater controls used to achieve compliance with the terms and conditions of the Permit, and its discharge of industrial stormwater in a manner not authorized by the Permit, are violations of the Permit and the Act.

Findings Related to Respondent's Failure to Use Controls on Lidless Dumpsters

58. The allegations of Paragraphs 1 through 57 of this Order are incorporated herein by reference.
59. The Permit requires that dumpster lids remain closed when not in use and that dumpsters and roll off boxes without lids have proper controls. Permit, Part C.II.C.1.h
60. At the time of the Inspection, Respondent failed to use any controls for its lidless dumpsters.

61. Specifically, the Inspection Team observed uncovered dumpsters with no controls and filled with garbage, debris, and scrap metal which were left out in the open exposed to stormwater.
62. At the time of the Inspection, Respondent violated the Act and Permit, Part C.II.C.1.h by failing to use any controls for its lidless dumpsters.

Findings Related to Respondent's Failure to Cover Fueling Areas

63. The allegations of Paragraphs 1 through 62 of this Order are incorporated herein by reference.
64. The Permit, Part C.II.C.1.i, requires that the Facility minimize contamination of stormwater runoff from fueling areas by implementing certain BMPs including covering fueling areas, using spill/overflow protection and cleanup equipment, and treating and/or recycling collected stormwater runoff where feasible.
65. At the time of the Inspection, Respondent failed to minimize contamination of stormwater runoff from fueling areas by implementing certain BMPs including the covering of fueling areas.
66. Specifically, the Inspection Team observed Respondent failed to provide overhead coverage for a diesel fuel tank which had liquid accumulated in its secondary containment.
67. At the time of the Inspection, Respondent violated the Act and Part C.II.C.1.i of the Permit by failing to minimize contamination of stormwater runoff from fueling areas by implementing the BMP of covering the fueling area.

Findings Related to Respondent's Failure to implement an effective means of preventing discharge from chemical and oil drums

68. The allegations of Paragraphs 1 through 67 of this Order are incorporated herein by reference.
69. Part C.II.C.3.b of the Permit requires that Respondent implement procedures for material storage and handling, including the use of secondary containment, or a similarly effective means of preventing the discharge of pollutants from such areas.
70. At the time of the Inspection, Respondent failed to implement an effective means of preventing the discharge of pollutants from areas with material storage and handling.
71. Specifically, the Inspection Team observed that at the time of the inspection, Respondent left open, uncovered, and without secondary containment drums that were labeled as oil or hydrophobe 31.

72. At the time of the Inspection, Respondent violated the Act and Part C.II.C.3.b of the Permit by failing to implement an effective means of preventing the discharge of pollutants from areas with material storage and handling.

Findings Related to Respondent's Failure to implement routine cleaning and maintenance programs for impervious areas where sediment from stockpiled raw material accumulated

73. The allegations of Paragraphs 1 through 72 of this Order are incorporated herein by reference.
74. The Permit, Part C.II.C.2.a requires that the Facility implement a routine cleaning and maintenance program for all impervious areas of the facility where particulate matter, dust or debris may accumulate in order to minimize the discharge of pollutants in stormwater.
75. At the time of the Inspection, Respondent failed to implement procedures for routine cleaning and maintenance for impervious areas of the facility where particulate matter, dust or debris accumulated.
76. Specifically, the Inspection Team observed significant track out of sediment from upgradient areas with stockpiles of raw materials via the Facility's exits onto Lemon Street and Hokes Mill Road.
77. At the time of the Inspection, Respondent violated the Act and Part C.II.C.2.a. of the Permit by failing to implement procedures for routine cleaning and maintenance for impervious areas of the facility where particulate matter, dust or debris accumulated.

Findings Related to Respondent's Failure to Clean Storm Drains of Accumulated Sediment

78. The allegations of Paragraphs 1 through 77 of this Order are incorporated herein by reference.
79. Part C.II.E.1. requires that the facility develop and implement a Preparedness, Prevention and Contingency (PPC) Plan.
80. The PPC Plan, Part C.4, requires the facility to clean out storm drains if they contain significant quantities of sediment.
81. At the time of the Inspection, Respondent failed to properly implement the PPC Plan because it had not cleaned out storm drains that had accumulated significant quantities of sediment.
82. Specifically, the Inspection Team observed that certain storm drain inlet catch basins

contained significant quantities of sediment.

83. At the time of the Inspection, Respondent violated the Act and Part C.II.E.1. of the Permit by failing to implement Part C.4 of the PPC Plan to clean out storm drains of significant quantities of sediment.

V. ORDER

THEREFORE, pursuant to Section 309(a) of the Act, 33 U.S.C. § 1319(a), Respondent is hereby ORDERED and consents to do the following:

84. Respondent shall take all actions necessary to comply with the requirements of the Permit and Section 301, 33 U.S.C. § 1311, of the CWA.
85. Within 30 days from the Effective Date of this Order, Respondent shall begin using a standard stormwater inspection form for the Facility.
- a. The form must include a section for the following information:
 - i. Date and time of the inspection
 - ii. Name and signature of the inspector; and
 - iii. Weather conditions at the site, and last precipitation event that exceeded .25 inch during a 24-hour period.
 - b. The form must contain a checklist for the following items:
 - i. all the on-site stormwater inlets;
 - ii. all the stormwater BMPs utilized at the Facility;
 - iii. all stormwater conveyances; and
 - iv. stormwater inlets within 20 feet of the property.
 - c. Respondent must visually inspect each of the items on the form for compliance with the Permit and must use the form to document compliance with the Permit during each inspection.
 - d. The form must include a section to record any corrective actions such as maintenance, repairs, additional BMPs, and improved implementation of BMPs and good housekeeping practices. Until Respondent completes such corrective actions, it shall continue to list the necessary corrective actions in subsequent inspection forms and any interim steps taken toward completion. Respondent should note the date a corrective action is completed on the inspection form.
 - e. Respondent must use the form to conduct stormwater management compliance inspections on a monthly basis and within 24 hours (or next weekday if the inspection would otherwise have to occur on a weekend or national holiday) after every precipitation event that exceeds a quarter inch of rainfall during a 24-hour period. No more than one inspection is required per

week.

- f. The person conducting the inspection shall be adequately trained in stormwater compliance and shall have the authority to require implementation of the necessary corrective actions at the Facility.
- g. The Facility shall maintain copies of completed stormwater inspection forms on-site for at least five years from the date of inspection and present such documentation upon request by representatives of Pennsylvania and/or federal environmental agencies.
- h. Respondent must review the form once a year to determine whether any updates or edits are necessary to account for stormwater management compliance measures taken on the site, and if so, make the appropriate changes on the form. Situations in which changes must be noted or documented in updating or filling out the form include but are not limited to when any stormwater control is added to or removed from the site, when spills or leaks have occurred, and when industrial materials or activities may be exposed to stormwater.
- i. Attached as Appendix A is a copy of the form which meets the requirements of Paragraphs 85.a., b., and d. above (Appendix A form). Respondent should modify the Appendix A form in accordance with Paragraph 85.h. above.

VI. EFFECTIVE DATE

This ADMINISTRATIVE ORDER ON CONSENT is effective after receipt by Respondent of a fully executed document.

SO ORDERED:

Date: 09/17/2020

**KAREN
MELVIN**

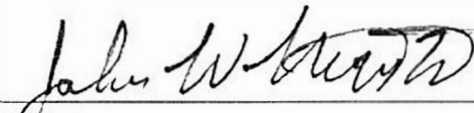
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KAREN MELVIN
Date: 2020.09.17
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Karen Melvin
Director, Enforcement & Compliance Assurance Division
U.S. EPA Region III

AGREED TO:

FOR RESPONDENT Lehigh White Cement Company

Date: Aug 28, 2020



Signature

John W. Murphy III

Printed Name

PLANT MANAGER

Title

APPENDIX A

LEHIGH WHITE CEMENT COMPANY – YORK PLANT

NPDES BMP CHECKLIST- INSPECTION FORM

Inspection Date/Time: _____

Inspector Signature: _____ Inspector Printed Name: _____

Current Weather Condition: _____

Last Precipitation Event Exceeding 0.25 inch during 24 hrs./ Date: _____

STORMWATER INLETS

| Location | Condition | Corrective Action Needed | Date Corrective Action Completed |
|---|-----------|--------------------------|----------------------------------|
| INLET 1-Adjacent to Kiln Feed Basement | | | |
| INLET 2- Adjacent to Mud Mixer Room | | | |
| INLET 3- Adjacent to Maintenance Shop/Railroad tracks | | | |
| INLET 4- Adjacent to Packhouse | | | |
| INLET 5- Adjacent to CEMs Building | | | |
| INLET 6- Adjacent to Gray Packhouse building | | | |
| INLET 7- Adjacent to Mill Building/Plant Entrance | | | |
| INLET 8- Adjacent to Truck Silos | | | |
| INLET 9- Adjacent to Front Office/Bulk Rail Loading | | | |

| | | | |
|---|--|--|--|
| INLET 10- Outside Plant adjacent to Hokes Mill Road | | | |
|---|--|--|--|

STORMWATER MANAGEMENT BMPs

| BMP | Condition | Corrective Action Needed | Date Corrective Action Completed |
|---|-----------|--------------------------|----------------------------------|
| Plant Roads/Exits to Public Roads | | | |
| 1" Stone Sump Pump and Containment Area | | | |
| Stormwater Pond Containment | | | |
| Erosion Control-Hokes Mill Road Fencing | | | |
| Dumpsters/Waste Receptacles | | | |
| Covering Fueling Areas | | | |

ADDITIONAL STORMWATER OBSERVATIONS
(BMPs/Good Housekeeping/Pollution Prevention)

| Miscellaneous | Condition | Corrective Action Needed | Date Corrective Action Completed |
|---------------|-----------|--------------------------|----------------------------------|
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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In the Matter of: :
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Lehigh White Cement Company : **U.S. EPA Docket No. CWA-03-2020-0138DN**
200 Hokes Mill Road :
York, PA 17404 :
 :
Respondent. : **ADMINISTRATIVE ORDER ON CONSENT**
 :
Hokes Mill Plant, :
 :
Facility. :
 :

CERTIFICATE OF SERVICE

I hereby certify that on 9/17/20, the foregoing Administrative Order on Consent was filed with the Regional Hearing Clerk, EPA Region III, and that a true and correct copy of this document was sent to the following individuals in the manner described below, at the following addresses:

Copy Served by UPS Overnight Delivery, Signature Required to:

John Murphy, Plant Manager
Lehigh White Cement Company
200 Hokes Mill Road
York, PA 17404-5540

TRACKING NUMBER: 1ZA43F710195709856

With an electronic copy to:

Todd Silliman
Dentons US LLP
todd.silliman@dentons.com

Jacobine Dru, Assistant Regional Counsel
U.S. EPA, Region III
dru.jacobine@epa.gov

Date: 9/22/20

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US EPA, Region III