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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No. CAA-05-2009-0002
National Lime and Stone Company)
Findlay, Ohio)
Respondent.) PROCEEDING TO ASSESS A CIVIL
) PENALTY UNDER SECTION 113(d)
) OF THE CLEAN AIR ACT, 42 U.S.C.
) §7413(d)
)

ANSWER AND REQUEST FOR HEARING

For its Answer to the Complaint filed by the United States Environmental Protection Agency ("USEPA"), Respondent National Lime and Stone Company ("NLS") avers and states that it:

FIRST DEFENSE

1. Admits the averments recited in paragraph 1 of the Complaint.
2. Lacks knowledge or information sufficient to form a belief as to the truth of the averments recited in paragraph 2 of the Complaint.

3. Admits the averments recited in paragraph 3 of the Complaint.
4. Admits the statutes speak for themselves, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments recited in paragraph 4 of the Complaint.
5. Admits the statutes speak for themselves, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments recited in paragraph 5 of the Complaint.
6. Admits the statutes speak for themselves, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments recited in paragraph 6 of the Complaint.
7. Admits the statutes speak for themselves, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments recited in paragraph 7 of the Complaint.
8. Admits the statutes speak for themselves, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments recited in paragraph 8 of the Complaint.
9. Admits the statutes speak for themselves, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments recited in paragraph 9 of the Complaint.
10. Admits the statutes speak for themselves, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments recited in paragraph 10 of the Complaint.

11. Admits the statutes speak for themselves, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments recited in paragraph 11 of the Complaint.

12. Admits the statutes speak for themselves, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments recited in paragraph 12 of the Complaint.

13. Lacks knowledge or information sufficient to form a belief as to the truth of the averments recited in paragraph 13 of the Complaint.

14. Denies that Respondent operates kilns, hydrators or coolers at the Carey Plant, but admits the remaining averments recited in paragraph 14 of the Complaint.

15. Admits the averments recited in paragraph 15 of the Complaint.

16. Admits the averments recited in paragraph 16 of the Complaint.

17. Admits the statute speaks for itself.

18. Denies that the initial PTI was issued on April 13, 1995. The initial PTI was issued by Ohio EPA on November 10, 1993. The PTI issued on April 13, 1995 was a modification. Admits the remaining averments recited in paragraph 18 of the Complaint.

19. Admits the averments recited in paragraph 19 of the Complaint.

20. Admits the averments recited in paragraph 20 of the Complaint.

21. Admits the averments recited in paragraph 21 of the Complaint.

22. Incorporates the admissions, denials and averments recited in paragraphs 1 through 21 herein.

23. Admits the averments recited in paragraph 23 of the Complaint.

24. Denies the averments recited in paragraph 24 of the Complaint. Pursuant to the Consolidated Rules of Practice, Respondent's denial is based on the following: Respondent's PTI and Title V permits express the OC emission limit as 5.32 lbs/hr. "as carbon." This is consistent with the June 20, 2002 Final Administrative Modification of Permit to Install 03-07409, which states, in part:

The hourly OC emission limitation is based on the emission unit's potential to emit. *

*The potential to emit for the pelletized limestone dryer is based on a maximum emission rate of 5.32 lbs. VOC per hour developed through stack testing.

The stack testing referred to in the PTI occurred on March 29, 2001. These stack test results were used to establish the maximum emission rate for OC at 5.32 lbs/hr. As stated in the June 20, 2002 PTI modification, this rate was derived from the Average TGO (VOC) Mass Emission Rate "as carbon" calculation in the stack test summary page. Further, the June 12, 2008 Final Administrative Modification of PTI 03-07409 states, in part, that the "[e]mission unit is being modified to correct OC calculations basis from as carbon to as propane." Accordingly, when viewed "as carbon," Respondent did not exceed emissions limits as specified by the permit, and therefore, no violation occurred.

25. Incorporates the admissions, denials and averments recited in paragraphs 1 through 24 herein.

26. Admits the averments recited in paragraph 26 of the Complaint.

27. Denies the averments recited in paragraph 27 of the Complaint on the following basis: the 2007 stack test was required by the Director' Final Findings and Orders entered into

December 2006 by Respondent and Ohio EPA. Consistent with Ohio EPA's protocol for administratively modifying a PTI, the express purpose of the 2007 stack test was to establish a new, higher limit for CO. On April 5, 2007, as further required by the Director's Final Findings and Orders, Respondent filed its application for an Administrative Modification of the PTI to increase the CO emission limit. On October 30, 2007, Ohio EPA issued the PTI modification to reflect the new CO limit of 4.38 lbs/hr., based on the 2007 stack test, and the new limit was thereafter incorporated into Respondent's Title V permit renewal application submitted by Respondent in June, 2007.

28. Opposes the proposed penalty based on the fact that there were no violations as alleged by USEPA. See paragraphs 18 and 27 herein.

29. Denies each and every averment not expressly admitted to be true, and further answering states that:

SECOND DEFENSE

30. The Complaint fails to state a claim upon which relief could be granted, based on the fact there were no violations.

THIRD DEFENSE

31. The Complaint is barred by the doctrine of res judicata. This matter was previously brought before Ohio EPA and a final determination was rendered.

FOURTH DEFENSE

32. The Complaint is barred by the doctrine of laches. At the time Ohio EPA issued its Final Findings and Orders, USEPA had an opportunity to review the proposed penalty and could have raised these issues at that time, which USEPA did not.

FIFTH DEFENSE

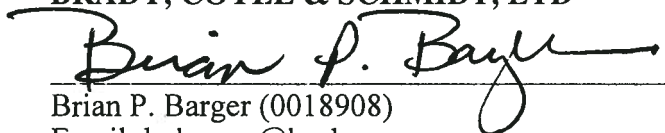
33. The Complaint is barred by the doctrine of collateral estoppel, as it was already heard and decided by Ohio EPA.

REQUEST FOR HEARING

Respondent requests a hearing pursuant to the Consolidated Rules.

Respectfully submitted,

BRADY, COYLE & SCHMIDT, LTD



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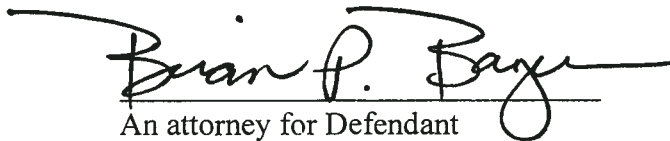
Attorneys for National Lime and Stone

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing *Answer and Request for Hearing* was sent this 12 day of December, 2008, via ordinary U.S. Mail, to Jose C. de Leon (C-14J), Associate Regional Counsel, Office of Regional Counsel, U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, IL 60604.



An attorney for Defendant