



State of Ohio Environmental Protection Agency

*will call*  
→ resp. due by Mar 2, 2008

**Southeast District Office**

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Logan, Ohio 43138

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Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

March 7, 2008

Re: Belmont County (Portable)  
Lash Paving Plant 3  
Facility ID # 0607980001  
Warning Letter and Compliance  
Plan Acceptance

**Certified Mail #70063450000190560792**

Mr. David Lash, Jr.  
Lash Paving  
P.O. Box 296  
Colerain, OH 43916

Dear Mr. Lash:

This letter is in response to your letter received on February 14, 2008, in response to Ohio EPA's warning letter dated October 30, 2007. In your letter, you addressed the visible emissions violation and other issues discovered during a site visit by Steve Alspach with the Division of Air Pollution Control (DAPC), Southeast District Office (SEDO), on October 4, 2007.

The documentation provided in your letter has been reviewed, and Ohio EPA has concluded that Lash Paving has resolved the following violation identified in the warning letter:

**Average Visible Particulate Emissions, 40 CFR Part 60, Subpart I, OAC rule 3745-31-05(A)(3) and Part II.A.1 of Permit-to-Install (PTI) #06-07509 (emissions unit P901)**

You have advised Ohio EPA that the visible emissions violation documented on October 4, 2007, which did constitute a malfunction, was the result of the failure of several bags and other equipment in the baghouse that controls emissions from the asphalt plant. These problems were corrected on October 11, 2007. To prevent visible emissions violations from the asphalt plant stack in the future, Lash Paving has committed to:

- (a) ensure that the required daily stack inspections are being conducted beginning with the 2008 construction season;
- (b) change the baghouse bags used from twist-lock style to band-lock style; and,
- (c) use longer baghouse bags.

The Ohio EPA accepts Lash Paving's Plan and Schedule for Plant #3 as submitted. Ohio EPA will schedule a site visit after the plant begins operating in 2008 to confirm the effectiveness of the corrective measures at eliminating the excessive visible emissions from the asphalt plant stack.

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In response to comment #1, you provided the daily inspection logs for September and October 2007 as requested. You also confirmed that a malfunction did occur in early October 2007 and provided some of the information required by OAC rule 3745-15-06(B). A review of the inspection logs, as was confirmed in your letter, revealed several discrepancies in logging daily inspections that were not identified in the deviation reports received for this plant on December 12, 2007 and January 22, 2008. Further, some inspections were logged during the period of malfunction, but those inspections did not document visible emissions concerns. As we discussed, your query of your operators revealed that when those inspections were conducted, the operators believed the appearance of the stack emissions to be satisfactory. This may be due to the timing of the inspections and changes in operational conditions throughout each operating day.

Based on the information provided, Ohio EPA has documented these additional violations of Ohio's air pollution laws and rules and the permits for Lash Paving Plant #3:

**(1) Malfunction reporting**

**OAC rule 3745-15-06(B) and Part I.A.5 of PTI #06-07509 (emissions unit P901)**

In the event that any emission source, air pollution control equipment, or related facility breaks down in such a manner as to cause the emission of air contaminants in violation of any applicable law, the person responsible for such equipment shall immediately notify the Ohio Environmental Protection Agency district office or delegate agency of such failure or breakdown. If the malfunction continues for more than seventy-two hours, the source owner or operator shall provide a written statement to the director within two weeks of the date the malfunction occurred. The immediate notification and written statement shall include the following data:

- (a) Identification and location of such equipment including the Ohio Environmental Protection Agency permit application number for each air contaminant source;
- (b) The estimated or actual duration of breakdown;
- (c) The nature and estimated quantity of air contaminants which have been or may be emitted into the ambient air during the breakdown period;
- (d) Statements demonstrating that:
  - (i) Shutdown or reduction of source operation during the breakdown period will be or would have been impossible or impractical;
  - (ii) The estimated breakdown period will be or was reasonable in duration based on installation or repair time, delivery dates of equipment, replacement parts, or materials, or current unavailability of essential equipment, parts, or materials;
  - (iii) Available alternative operating procedures and interim control measures will be or have been implemented during the breakdown period to reduce adverse effects on public health or welfare; and
  - (iv) All actions necessary and required by any applicable preventive maintenance and malfunction abatement plan will be or have been implemented.

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The malfunction of any emissions units or any associated air pollution control system(s) shall be reported to the appropriate Ohio EPA District Office or local air agency in accordance with paragraph (B) of OAC rule 3745-15-06 (as outlined above). Except as provided in that rule, any scheduled maintenance or malfunction necessitating the shutdown or bypassing of any air pollution control system(s) shall be accompanied by the shutdown of the emissions unit(s) that is (are) served by such control system(s).

The malfunction that was observed on October 4, 2007 and that you indicated was resolved on October 11, 2007, exceeded 72 hours and was not reported in writing to Ohio EPA within two weeks of the date the malfunction occurred. Further, the malfunction information provided in your letter received February 14, 2008 did not address whether the asphalt plant was shut down or if operations were reduced when the baghouse malfunction was discovered, or if it was impossible or impractical to do so. Reasons for the duration of the malfunction were also not provided, and no alternative operating procedures or control measures were identified.

To resolve this violation, please provide Ohio EPA with an updated malfunction report for the October 2007 visible particulate emissions violation that meets the requirements of the malfunction reporting rule and the terms and conditions of the PTI #06-07509. In addition, please provide the company's plan to ensure (1) that the plant operators are able to recognize excess visible emissions, particularly the difference between steam and particulate or gaseous pollutant emissions, and (2) that the company's future responses to malfunctions will meet the requirement of the permit and OAC rule 3745-15-06(B).

**(2) Recordkeeping**

***Part II.C.3 (emissions unit F001), Part II.C.6 (emissions unit F002), and Part II.C.4 (emissions unit P901) of PTI #06-07509***

The PTI for the emissions units identified above require that inspection logs be kept to document the daily inspections of the roadways, storage piles, and asphalt plant.

As indicated by the September and October 2007 daily logs you provided and as documented in your letter, there were 13 days during the third quarter of 2007 and 24 days during the fourth quarter of 2007 when inspections were not logged. You indicated that this problem would be addressed and corrected during the upcoming construction season. Resolution of this violation will be evaluated when Ohio EPA visits the site to evaluate visible emissions from the asphalt plant stack.

In response to Comment #2, Lash Paving met with Ralph Witte with Ohio EPA's Office of Compliance Assistance and Pollution Prevention (OCAPP) on November 29, 2007 to evaluate the permitting requirements for the 100 tph portable crusher and associated 250 HP diesel engine observed on site during Mr. Alspach's site visit. Mr. Witte's evaluation

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confirmed that the portable crusher unit and engine were installed and operated without a permit, but that the crusher is eligible for coverage under a permit-by-rule (PBR) exemption in OAC rule 3745-31-03(A)(4)(d). On November 29, 2007, Ohio EPA received a PBR notification from Lash Paving for the crusher, but a determination on the need for permitting the 250 HP engine was postponed pending guidance from Ohio EPA's Central Office. In addition, Mr. Witte observed a portable 35 tph screening unit with a 30 HP diesel-fired engine in use at the Plant 3 site which may be deMinimis under OAC rule 3745-15-05(D) and not subject to permitting provided records are kept to demonstrate that the screening unit is not operated for more than 10.75 hours per day.

Based on this information, Ohio EPA has documented these additional violations of Ohio's air pollution laws and rules:

**(3) PTI Requirement**  
**OAC rule 3745-31-02(A)(1)**

Except as provided in rule 3745-31-03 of the Administrative Code, no person shall cause, permit, or allow the installation of a new source of air pollutants, or cause, permit, or allow the modification of an air contaminant source, without first obtaining a permit-to-install from the director.

- (a) 100 tph portable crusher. As indicated above, this unit was installed and operated without an installation or operation permit, and the company did not have records to demonstrate that this unit is deMinimis under OAC rule 3745-15-05. With the receipt of the PBR notification on November 29, 2007, this violation was resolved and no further action is required.
- (b) 250 HP portable diesel engine. To date, SEDO has not received updated guidance from DAPC's Central Office that air permits are not needed for this type of unit. Therefore, SEDO recommends that Lash Paving submit an application for an individual PTI for this portable unit. Application instructions and forms can be found at <http://www.epa.state.oh.us/dapc/fops/eac/eacforms.html>.
- (c) 35 tph screener with 30 HP diesel engine. This unit was installed and operated without an installation or operation permit, and the company did not have records to demonstrate that this unit is deMinimis under OAC rule 3745-15-05. Mr. Witte's evaluation of the emissions from this source revealed that it would be deMinimis under OAC Rule 3745-15-05 if it is operated less than 10.75 hours per day and the company keeps records to document that the actual hours of operation each day does not exceed 10.75 hours. You have indicated that Lash Paving will begin keeping records to demonstrate the deMinimis status of this unit. Ohio EPA will evaluate Lash Paving's records for the portable screening unit when the site visit is conducted to evaluate visible emissions and recordkeeping as identified above.

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Lastly, please be advised that the response to Ohio EPA's October 30, 2007 warning letter was requested within thirty (30) days of your receipt of the letter. Because the company received the letter on November 1, 2007, a response was due by December 1, 2007; however, the response was not received until February 14, 2008, although the company never requested an extension. As we have discussed with the deviation reports and as identified above for malfunction reporting, please ensure that your future submittals are timely.

***Within 30 days of your receipt of this letter, please submit to this office the information requested under Violation #s 1 and 3(b), above.*** Acceptance by the Ohio EPA of a schedule for compliance does not constitute a waiver of the Ohio EPA's authority to seek civil penalties as provided in section 3704.6 of the Ohio Revised Code. The determination to pursue or to decline such penalties in this case will be made at a later date.

Should you have any questions, feel free to contact me at (740) 380-5245 or via email at [kim.reinbold@epa.state.oh.us](mailto:kim.reinbold@epa.state.oh.us).

Sincerely,



Kimbra L. Reinbold  
Division of Air Pollution Control  
Southeast District Office

KLR/mlm

Enclosure

cc: Ralph Witte, OCAPP, SEDO