

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF THE DIRECTOR

In the matter of administrative proceedings)
against **SMURFIT STONE CONTAINER**)
ENTERPRISES, INC., a corporation)
organized under the laws of the State of)
Delaware and doing business at One Superior)
Way, in the City of Ontonagon, County of)
Ontonagon, State of Michigan.)

AQD No. 9- 2009

SRN: A5754

STIPULATION FOR ENTRY OF FINAL ORDER
BY CONSENT

This proceeding resulted from allegations by the Michigan Department of Environmental Quality ("MDEQ") Air Quality Division ("AQD") against Smurfit Stone Container Enterprises, Inc., ("Company"), a Delaware corporation located at One Superior Way in the City of Ontonagon, County of Ontonagon, State of Michigan, with State Registration Number ("SRN") A5754. The MDEQ alleges that the Company is in violation of the Michigan Administrative Code ("MAC"), 2002 AACRS, R 336.1301 ("Rule 301"). Specifically, the MDEQ alleges that the Company has failed to maintain compliance with the opacity limitations for the No. 1 Riley Boiler (EGRB1) required by Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended ("Act 451"), Article II, Pollution Control, Chapter 1: Point Source Pollution Control and Air Resources Protection; and by Renewable Operating Permit No. MI-ROP-A5754-2007b ("ROP") General Provision 11(a), as cited herein and in the Letter of Violation ("LOV") dated April 22, 2008. The Company and MDEQ stipulate to the termination of this proceeding by entry of a Stipulation for Entry of a Final Order by Consent ("Consent Order").

The Company and MDEQ stipulate as follows:

1. The Natural Resources and Environmental Protection Act, 1994 PA 451, ("Act 451"), MCL 324.101 et seq. is an act that controls pollution to protect the environment and natural resources in the State.
2. Article II, Pollution Control, Part 55 of Act 451 ("Part 55"), MCL 324.5501 et seq. provides for air pollution control regulations in this State.

3. The Michigan Department of Natural Resources ("MDNR") is authorized pursuant to Section 5503 of Part 55 to administer and enforce all provisions of Part 55. Section 301 of Part 3 provides the authority to the Director of the MDNR to delegate powers and duties.

4. The MDEQ was created as a principal department within the Executive Branch of the State of Michigan pursuant to Executive Order 1995-18. All statutory authority, powers, duties, functions and responsibilities of the MDNR AQD were transferred to the Director of the MDEQ ("Director").

5. The Director has delegated authority to the Chief of the AQD ("AQD Chief") to enter into this Consent Order.

6. The termination of this matter by a Consent Order pursuant to Section 5528 of Part 55 is proper and acceptable.

7. The Company and the MDEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the Company that the law has been violated.

8. This Consent Order becomes effective on the date of execution ("effective date of this Consent Order") by the AQD Chief.

9. The Company shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in this Consent Order.

COMPLIANCE PROGRAM AND IMPLEMENTATION SCHEDULE

10. A. Renewable Operating Permit No. MI-ROP-A5754-2007b

The particulate emission limit for the No. 1 Riley Boiler is set forth in subsection I.3 of the Emission Unit for the No. 1 Riley Boiler, Section "EURB1, Emission Unit Conditions" of Renewable Operating Permit No. MI-ROP-A5754(b), which states: "The particulate emission from the Riley Boiler shall not exceed 0.25 pounds per 1,000 pounds of exhaust gases, corrected to 50% excess air." This particulate emission limit, or its subsequent Renewable Operating Permit revision or renewal, is incorporated by reference, and made an enforceable part of this Consent Order.

B. Final Emission Limitations

During the period that this Consent Order is effective, emissions of opacity from the Riley Boiler shall not continue for more than two hours in excess of 20 percent opacity based upon 6-minute averages, excepting one 6-minute average per hour of not more than 27 percent opacity as set forth in Rule 301(a), R 336.1301. (ROP General Conditions 11.a and 25)

RECORDKEEPING, REPORTING, AND PERFORMANCE AUDITS

11. During the period that this Consent Order is effective, except for routine maintenance, calibrations, and adjustments, and for malfunctions as defined in MAC R 336.2190, the Company shall operate and maintain a continuous opacity monitoring system (“COMS”) on No. 1 Riley Boiler (“EURB1”) and keep records of the opacity on a continuous basis and with instrumentation acceptable to the AQD, as specified in Performance Specification 1 of 40 CFR Part 60, Appendix B and Table EURB1, Section VI of the ROP. This information shall be kept on file at the Company for a period of at least five (5) years, and shall be made available to the MDEQ upon written or verbal request.

12. During the period that this Consent Order is effective, the Company shall perform an annual audit of the No. 1 Riley Boiler, EUBRB1, continuous opacity monitoring system using requirements in Performance Specification 1 and 40 CFR 60 Appendix B. Within 45 days of completion, the Company shall submit the results of the annual audit to the AQD Upper Peninsula District Supervisor and to the AQD Technical Programs Unit Chief, at the address listed in paragraph 15 below.

13. During the period that this Consent Order is effective, the Company shall perform monitoring, recordkeeping, and reporting of deviations from permit requirements for the No. 1 Riley Boiler, EURB1, and submit semiannual reporting, by March 15 for the semi-annual period between July 1 and December 31 and by September 15 for the semi-annual period between January 1 and June 30, to the AQD Upper Peninsula District Supervisor and to the AQD Technical Programs Unit Chief, at the address listed in paragraph 15 below, as specified in Table EURB1, Sections VI and VII of the ROP and in accordance with methods and procedures approved by the AQD.

14. During the period that this Consent Order is effective, within 30 days following the end of each calendar quarter, the Company shall submit quarterly excess emission reports (“EER”) and a summary of the COMS for the EUBOILER No. 1 Riley Boiler, EURB1, using procedures set forth in 40 CFR 60.7(c and d). The EER shall include the magnitude, in actual percent opacity, of each six minute average of opacity greater than the permit limit and the time period represented by such averages. It shall also include the cause of the excess emission, if known, periods of COMS downtime, any corrective action taken, and total operating time of the source(s). If no exceedances or COMS downtime occurred during the time period, the Company shall report that fact. The quarterly excess emission reports shall be submitted to the AQD Upper Peninsula District Supervisor and to the AQD Technical Programs Unit Chief, at the address listed in paragraph 15 below. This information shall be kept on file at the Facility

for a period of at least five (5) years, and shall be made available to the MDEQ upon written or verbal request.

15. Reports required to be submitted under this Consent Order shall be sent to the AQD Upper Peninsula District Supervisor, Department of Environmental Quality, 420 Fifth Street, Gwinn, MI 48941-3004; and to the AQD Technical Programs Unit Chief, Department of Environmental Quality, Constitution Hall, 3rd Floor North, 525 Allegan Street, Lansing MI 48933.

GENERAL PROVISIONS

16. This Consent Order in no way affects the Company's responsibility to comply with any other applicable state and federal, or local laws or regulations, including without limitation, any amendments to the federal Clean Air Act, 42 USC 7401 *et seq.*, Act 451, Part 55 or their rules and regulations, or to the State Implementation Plan.

17. This Consent Order constitutes a civil settlement and satisfaction as to the resolution of the violations specifically addressed herein; however, it does not resolve any criminal action that may result from these same violations.

18. The Company agrees that the State of Michigan, through the Michigan Department of Environmental Quality, shall have an allowed general unsecured nonpriority claim in the amount of \$24,000.00 ("Allowed Claim") in full settlement of the matters covered by this Consent Order. The Company shall request that such Allowed Claim be allowed for all purposes in the bankruptcy case including, without limitation, distribution pursuant to a confirmed plan of reorganization. The State of Michigan agrees that it shall file a Claim Notice at the appropriate time in the amount of the Allowed Claim (and no other amount). The Company agrees to insure that the Bankruptcy Court shall provide notice addressed to In Re: AQD3311, Michigan Department of Environmental Quality, Financial and Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909-8157.

19. On and after the effective date of this Consent Order, if the Company fails to comply with paragraph 10.B. of this Consent Order, the Company is subject to a stipulated fine of up to \$1,500.00 per violation. On and after the effective date of this Consent Order, if the Company fails to comply with paragraph 10.A of this Consent Order, the Company is subject to stipulated fines of up to \$1,000.00 per violation. On and after the effective date of this Consent Order, if the Company fails to comply with any other provision of this Consent Order, the Company is subject to a stipulated fine of up to \$500.00 per violation. The amount of the stipulated fines imposed pursuant to this paragraph shall be

within the discretion of the MDEQ including consideration of MAC R 336.1915 and 336.1916. Stipulated fines submitted under this Consent Order shall be by check, payable to the State of Michigan within thirty (30) days of written demand and shall be delivered to the Michigan Department of Environmental Quality, Financial and Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909-8157. To ensure proper credit, all payments shall include the Agreement Identification No. AQD3311S on the face of the check. Payment of stipulated fines shall not alter or modify in any way the Company's obligation to comply with the terms and conditions of this Consent Order.

20. The AQD, at its discretion, may seek stipulated fines or statutory fines for any violation of this Consent Order which is also a violation of any provision of applicable federal and state law, rule, regulation, permit, or MDEQ administrative order. However, the AQD is precluded from seeking both a stipulated fine under this Consent Order and a statutory fine for the same violation.

21. To ensure timely payment of any stipulated fines assessed pursuant to paragraph 19 of this Consent Order, the Company shall pay an interest penalty to the State of Michigan each time it fails to make a complete or timely payment under this Consent Order. The interest penalty shall be determined at a rate of twelve percent (12%) per year, or such lower rate mandated by the bankruptcy court in approving this Order, compounded annually, using the full increment of amount due as principal, calculated from the due date specified in this Consent Order until the date that delinquent payment is finally paid in full. Payment of an interest penalty by the Company shall be made to the State of Michigan in accordance with paragraph 19 of this Consent Order. Interest payments shall be applied first towards the most overdue amount or outstanding interest penalty owed by the Company before any remaining balance is applied to subsequent payment amount or interest penalty.

22. The Company agrees not to contest the legal basis for the Allowed Claim asserted pursuant to paragraph 18. The Company also agrees not to contest the legal basis for any stipulated fines assessed pursuant to paragraph 19 of this Consent Order, but reserves the right to dispute in a court of competent jurisdiction the factual basis upon which a demand by MDEQ of stipulated fines is made. In addition, the Company agrees that said fines have not been assessed by the MDEQ pursuant to Section 5529 of Part 55 and therefore are not reviewable under Section 5529 of Part 55.

23. This compliance program is not a variance subject to the 12 month limitation specified in Section 5538 of Part 55.

24. This Consent Order shall remain in full force and effect for a period of at least two (2) years. Thereafter, the Consent Order shall terminate only upon written notice of termination issued by the AQD Chief. Prior to issuance of a written notice of termination, the Company shall submit a request, to the AQD Chief at the Michigan Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, consisting of a written certification that the Company is fully complying with all the requirements of this Consent Order as of the date of the certification and has made all payments including all stipulated fines required by this Consent Order. Specifically, this certification shall include: (i) the date of compliance with each provision of the compliance program and the date any payments or stipulated fines were paid; (ii) a statement that all required information has been reported to the AQD Upper Peninsula District Supervisor; (iii) confirmation that the facility is currently maintaining all records required to be maintained pursuant to this Consent Order at the facility; and, (iv) such information as may be requested by the AQD Chief.

25. In the event Smurfit Stone Container Enterprises, Inc., sells or transfers the facility, with SRN A5754, it shall advise any purchaser or transferee of the existence of this Consent Order in connection with such sale or transfer. Within thirty (30) calendar days, the Company shall also notify the AQD Upper Peninsula District Supervisor, in writing, of such sale or transfer, the identity and address of any purchaser or transferee, and confirm the fact that notice of this Consent Order has been given to the purchaser and/or transferee. As a condition of the sale, the Company must obtain the consent of the purchaser and/or transferee, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the AQD Upper Peninsula District Supervisor within thirty (30) days of assuming the obligations of this Consent Order.

26. Prior to the effective date of this Consent Order and pursuant to the requirements of Sections 5511 and 5528(3) of Part 55, the public was notified of a 30-day public comment period and was provided the opportunity for a public hearing.

27. Section 5530 of Part 55 may serve as a source of authority but not a limitation under which the Consent Order may be enforced. Further, Part 17 of Act 451 and all other applicable laws and any other legal basis or applicable statute may be used to enforce this Consent Order.

28. The Company hereby stipulates that entry of this Consent Order is a result of an action by MDEQ to resolve alleged violations of its facility located at One Superior Way, in Ontonagon, Michigan. The Company further stipulates that it will take all lawful actions necessary to fully comply with this Consent Order. The Company will accept the settlement amount as an Allowed Claim (as set forth in

paragraph 18) and, subject to the approval of the Bankruptcy Court, will not seek discharge of any stipulated fines imposed hereunder, and the Company will take necessary steps to ensure that any future stipulated fines are not discharged, including requesting an order from the pertinent U.S. Bankruptcy Court designating any future stipulated fines as exceptions to discharge pursuant to 11 U.S. Code Section 523(a)(7). The Company, during its bankruptcy proceedings, will attempt to ensure that any future stipulated fines remain an obligation to be paid in full by the Company to the extent allowed by applicable bankruptcy law.

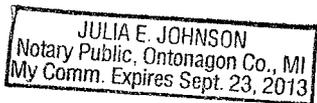
The undersigned certifies that he/she is fully authorized by the Company to enter into this Consent Order and to execute and legally bind the Company to it.

SMURFIT STONE CONTAINER ENTERPRISES, INC.

Chris Browne - General Manager
Print Name and Title

[Signature] Date: 5/22/09
Signature

The above signatory subscribed and sworn to before me this 27th day of May, 2009.



[Signature]
Notary Public
Approved as to Form:

Approved as to Content:

[Signature]
G. Vinson Hellwig, Chief
AIR QUALITY DIVISION
DEPARTMENT OF
ENVIRONMENTAL QUALITY

[Signature]
Alan F. Hoffman, Section Head
ENVIRONMENTAL REGULATION SECTION
ENVIRONMENT, NATURAL RESOURCES,
AND AGRICULTURE DIVISION
DEPARTMENT OF ATTORNEY GENERAL

Dated: 6/5/09

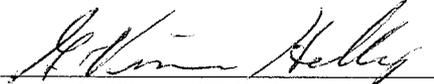
Dated: 6/5/09

FINAL ORDER

The Chief of the Air Quality Division having had opportunity to review the Consent Order and having been delegated authority to enter into Consent Orders by the Director of the Michigan Department of Environmental Quality pursuant to the provisions of Part 55 of Act 451 and otherwise being fully advised on the premises,

HAS HEREBY ORDERED that the Consent Order is approved and shall be entered in the record of the MDEQ as a Final Order.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY



G. Vinson Hellwig, Chief
Air Quality Division

Dated: 6/5/09