



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

June 5, 2024

VIA CERTIFIED MAIL #9589 0710 5270 0682 2479 05

Georgia Vlamis, Director
United States Gypsum Company
550 W. Adams Street
Chicago, IL 60661

Re: Commissioner of the Department of
Environmental Management

v.

United States Gypsum Company
Plant ID: 101-00001
Case No. 2022-28437-A

Qualified offer of settlement: inadmissible pursuant to Rule 408 of the Ind. Rules of Evidence. IDEM asserts that any offer to compromise a claim or any acceptance of such offer does not bind or obligate the parties of this enforcement action in the absence of a final order of the agency.

Dear Georgia Vlamis:

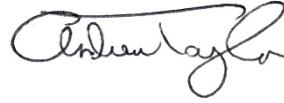
Enclosed please find the proposed Agreed Order that provides for the actions required to correct the violations for which a Notice of Violation was waived on February 28, 2022. The civil penalty noted in the proposed Agreed Order is for settlement purposes only. Entering into and timely compliance with the enclosed Agreed Order will constitute resolution of this case.

If you are willing to resolve this matter as provided for in the enclosed Agreed Order, sign and return it to me at the address specified in the Agreed Order within fifteen (15) days of your receipt of the Agreed Order. The individual signing the enclosed Agreed Order should be the President of the company or other authorized signatory. If you would like to schedule a meeting to discuss the Agreed Order in more detail, please contact me as soon as possible at (317) 233-2711.

If this matter cannot be resolved through the enclosed Agreed Order or a mutually acceptable amended Agreed Order, a Commissioner's Order may be issued. It should be understood that the civil penalty for purposes of a Commissioner's Order will be assessed pursuant to IDEM's Civil Penalty Policy adopted as a Nonrule Policy Document on April 5, 1999.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink that reads "Andrew Taylor". The signature is written in a cursive style with a large, looping initial "A".

Andrew Taylor
Case Manager
Enforcement Section
Office of Air Quality

Enclosure

cc: Jason Kutche (jkutche@usg.com)
Mark Messersmith, US EPA Region 5
Andrew Taylor, Compliance and Enforcement Branch, OAQ
Nicholas Carr, Compliance and Enforcement Branch, OAQ
Randy Hoffman, Compliance and Enforcement Branch, OAQ
<http://www.IN.gov/idem>

5. During an investigation conducted by a representative of IDEM, the following violations were found:
 - a. Pursuant to Part 70 Permit 101-40721-00001 (“Permit”), condition D.2.1, in order to render the requirements of 326 IAC 2-2 not applicable, the particulate matter (“PM”), PM10, and PM2.5 emissions from the calcining kettle, identified as HEK #2a, shall not exceed 0.77 pounds per hour (“lb/hr”).

During stack testing conducted on May 11, 2021, the PM, PM10, and PM2.5 emissions from HEK #2a were 2.35 lb/hr, in violation of Permit condition D.2.1.
 - b. Pursuant to 40 CFR 60.732(a), no emissions shall be discharged into the atmosphere from HEK #2a that contains particulate matter in excess of 0.04 grains per dry standard cubic foot (“gr/dscf”).

During stack testing conducted on May 11, 2021, particulate matter emissions from HEK #2a were 0.082 gr/dscf, in violation of 40 CFR 60.732(a).
6. On November 2, 2021, Respondent conducted stack retesting on HEK #2a, with results indicating compliance.
7. Orders of the Commissioner are subject to administrative review by the Office of Environmental Adjudication under IC 4-21.5; however, in recognition of the settlement reached, Respondent acknowledges notice of this right and waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective (“Effective Date”) when it is approved by Complainant or Complainant’s delegate, and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondent shall comply with Part 70 Permit 101-40721-00001 unless superseded by a renewal or revision.
3. All submittals required by this Agreed Order, unless IDEM notifies the Respondent otherwise in writing, shall be sent to:

Andrew Taylor, Enforcement Case Manager
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251
AKTaylor@idem.IN.gov

4. Pursuant to IC 13-30-4-1, Respondent is assessed and agrees to pay a civil penalty of Seven Thousand Dollars (\$7,000.00). Said penalty amount shall be due and payable to the Environmental Management Special Fund within thirty (30) days of the Effective Date; the thirtieth day being the "Due Date."
5. Civil penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:

Indiana Department of Environmental Management
Accounts Receivable
IGCN, Room 1340
100 North Senate Avenue
Indianapolis, IN 46204

6. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent pays any unpaid balance. Such interest shall be payable to the Environmental Management Special Fund, and shall be payable to IDEM in the manner specified in Paragraph 5, above.
7. Signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent.
8. This Agreed Order shall apply to and be binding upon Respondent and all successors and assigns. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners, successors, or assigns before ownership rights are transferred.
9. No change in ownership, corporate, or partnership status of Respondent shall in any way alter the Respondent's status or responsibilities under this Agreed Order.
10. Respondent shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
11. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
12. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of the obligation to comply with the requirements of any applicable permits or any applicable Federal or State laws or regulations.

13. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
14. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to, seek additional civil penalties for the violations specified in this Agreed Order.
15. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the U.S. Environmental Protection Agency ("U.S. EPA") or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the U.S. EPA or any other agency or entity.
16. This Agreed Order shall remain in effect until Respondent has complied with all terms and conditions of this Agreed Order and IDEM has issued a Resolution of Case letter to Respondent.

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY

TECHNICAL RECOMMENDATION:
Department of Environmental
Management

By: David P. McIver
David P. McIver
Section Chief
Enforcement Section
Office of Air Quality

Date: June 5, 2024

RESPONDENT:
United States Gypsum Company

By: _____

Printed: _____

Title: _____

Date: _____

COUNSEL FOR RESPONDENT:

By: _____

Date: _____

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT THIS _____ DAY OF
_____, 20____.

For the Commissioner:

Matthew Stuckey
Assistant Commissioner
Office of Air Quality
Indiana Department of Environmental
Management

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