



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 13, 2024

VIA CERTIFIED MAIL #9589 0710 5270 0682 2479 81

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

Re: Adoption of Agreed Order
Commissioner, Indiana Department of
Environmental Management
v.
United States Gypsum Company
Plant ID No. 101-00001
Case No. 2022-28437-A
Shoals, Martin County

Dear Georgia Vlamis:

This is to inform you that the Agreed Order in the above-referenced case has been approved and adopted by the Indiana Department of Environmental Management. A copy of the Agreed Order is enclosed.

Please note the terms of compliance contained in the Agreed Order. The time frames for compliance are effective upon your receipt of this correspondence. Please note that the civil penalty is due within thirty (30) days after the effective date of the Agreed Order. Payment should be made payable to the Environmental Management Special Fund and sent to:

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

Please include the Case Number on the front of the check. If you have any questions, please contact Andrew Taylor at (317) 233-2711 or AKTaylor@idem.IN.gov.

Sincerely,



David P. McIver, Chief
Enforcement Section
Office of Air Quality

Enclosure

cc: Jason Kutche (jkutche@usg.com)
Nathan Frank, US EPA Region 5
Martin County Health Department
Andrew Taylor, Compliance and Enforcement Branch, OAQ
Tammy Haug, Compliance and Enforcement Branch, OAQ
<http://www.IN.gov/idem>



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

STATE OF INDIANA) SS: BEFORE THE INDIANA DEPARTMENT OF
)
COUNTY OF MARION) ENVIRONMENTAL MANAGEMENT

COMMISSIONER OF THE DEPARTMENT)
OF ENVIRONMENTAL MANAGEMENT,)

) Complainant,)

) v.)

Case No. 2022-28437-A

UNITED STATES GYPSUM COMPANY,)

) Respondent.)

AGREED ORDER

Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to Indiana Code (“IC”) 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent’s entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this order.

I. FINDINGS OF FACT

1. Complainant is the Commissioner (“Complainant”) of the Indiana Department of Environmental Management (“IDEM”), a department of the State of Indiana created by IC 13-13-1-1.
2. Respondent is United States Gypsum Company (“Respondent”), which owns and operates the stationary gypsum mining operation and gypsum wallboard and plaster products manufacturing plant with Plant ID No. 101-00001, located at 12802 Deep Cut Lake Road, in Shoals, Martin County, Indiana (“Site”).
3. IDEM has jurisdiction over the parties and the subject matter of this action.
4. By letter dated February 28, 2022, Respondent waived issuance of a Notice of Violation (“NOV”) and the settlement period of sixty (60) days, as provided for by IC 13-30-3-3, for the violations described in the Enforcement Action Letter issued to Respondent on January 25, 2022.



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: [Signature]

Printed: DAKOTAH ROGERS

Title: PLANT MANAGER

Date: JUNE 10, 2024

COUNSEL FOR RESPONDENT:

By: _____

Date: _____

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT THIS 13th DAY OF
June, 2024.

For the Commissioner:

[Signature]

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

Remove X

Tracking Number:

9589071052700682247981

Copy

Add to Informed Delivery (<https://informedelivery.usps.com/>)

Latest Update

Your package is moving within the USPS network and is on track to be delivered to its final destination. It is currently in transit to the next facility.

Get More Out of USPS Tracking:

USPS Tracking Plus[®]

Delivered

Out for Delivery

Preparing for Delivery

Moving Through Network

In Transit to Next Facility

June 19, 2024

Arrived at USPS Regional Facility

CHICAGO IL DISTRIBUTION CENTER

June 14, 2024, 11:13 am

Arrived at USPS Regional Facility

INDIANAPOLIS IN DISTRIBUTION CENTER

June 13, 2024, 10:52 pm

Hide Tracking History

Feedback

[What Do USPS Tracking Statuses Mean? \(https://faq.usps.com/s/article/Where-is-my-package\)](https://faq.usps.com/s/article/Where-is-my-package)