NOTE: CONSCENT ORDER 4

Georgia Department of Natural Resources
Environmental Protection Division • Air Protection Branch
4244 International Parkway • Suite 120 • Atlanta • Georgia 30354
404/363-7000 • Fax: 404/363-7100
Judson H. Turner, Director

November 17, 2014

MEMORANDUM

To: Carol Weight

Through: Karen Hays KH
Manager, Policy & Radiation Program

From: Sean Taylor SMT
Manager, Stationary Source Compliance Program

Re: Proposed Consent Order
International Marble, Inc., Canton, Cherokee
AIRS #057-00061

The attached proposed consent order to be issued to International Marble, Inc., Canton, is ready for public notice. This Consent Order is being noticed because it is the second Consent Order to be issued to the Company in a twelve-month period. A previous Order was executed January 21, 2014. The facility contact person's name and address is:

Mr. Mark Anderson
President
International Marble, Inc.
189 Etowah Industrial Court
Canton, Georgia 30114

SMT/rhs

Attachment

STATE OF GEORGIA
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION

RE: International Marble, Inc.
189 Etowah Industrial Court
Canton, Georgia
Cherokee County
AIRS #057-00061

ORDER NO. EPD-AQC-6763

CONSENT ORDER

WHEREAS, International Marble, Inc. (hereinafter called the "Company") presently owns and operates a cultured marble and vanity manufacturing facility (hereinafter called the "Facility") in Canton, Cherokee County, Georgia; and

AUTHORITY

WHEREAS, under the "Georgia Air Quality Act" as amended O.C.G.A. § 12-9-1 et seq. (hereinafter called the "Act"), the General Assembly of Georgia designated the Director of the Georgia Department of Natural Resources, Environmental Protection Division, (hereinafter called the "Director" and "Division") to administer the provisions of the Act; and

WHEREAS, the Rules for Air Quality Control, Chapter 391-3-1, as amended, (hereinafter called the "Rules") required under O.C.G.A. § 12-9-5 of the Act were established and became effective; and

WHEREAS, O.C.G.A. § 12-9-6 of the Act assigns the Director the power to issue permits stipulating in each permit the conditions or limitations under which such permit was issued and the power to issue orders as may be necessary to enforce compliance with the provisions of the Act and all rules and regulations promulgated there under; and

HISTORY

WHEREAS, the Division issued Air Quality Permit No. 3088-057-0061-E-01-0 (hereinafter called the "Permit") to the Company on July 20, 2012, for the construction and operation of the Facility; and

WHEREAS, the Director of the Division executed Consent Order No. EPD-AQC-6708 (hereinafter called the "Order") to the Company on January 21, 2014, for the purpose of resolving and disposing of the allegations of violations of Conditions 6.2, 7.1, 7.2, 7.4, 7.11, and 8.3 of the Permit set forth therein; and

WHEREAS, the Order states that it does not waiver the Division's authority to take further enforcement action, or imply that the Division will not take such action, if the respondent fails to fully satisfy the conditions of the Order, or fully comply with other relevant requirements; and

WHEREAS, Condition 3 of the Order specified that the Company shall conduct a second performance test on or before March 31, 2014, to determine the destruction efficiency (hereinafter called "DRE") for the regenerative thermal oxidizer (hereinafter called "RTO") after the natural gas supply upgrade has been completed and conduct the test in compliance with Condition 6.1 of the Permit and the Division's *Procedures for Testing and Monitoring*; and

WHEREAS, Condition 2.1 of the Permit requires that the Company not discharge, or cause the discharge into the atmosphere, from the entire facility, volatile organic compounds (VOC) in an amount equal to or exceeding 25 tons during any consecutive 12-month period; and

WHEREAS, Condition 2.8 of the Permit requires the Company to comply with specified work practice standards of 40 CFR 63 Subpart WWWW; and

WHEREAS, Condition 3.1 of the Permit requires the Company to take all reasonable precautions with any operation, process, handling, transportation, or storage facilities to prevent fugitive emissions of air contaminants; and

WHEREAS, Condition 4.1 of the Permit requires the Company to operate the RTO so as to achieve compliance with the requirement of Condition 2.1 and to maintain the RTO temperature at a minimum of 1500°F until the initial performance test is completed; and

WHEREAS, Condition 5.1 of the Permit requires the Company to continuously monitor and record the temperature of the RTO combustion bed, the VOC capture system fan speed (in RPMs), and the VOC concentration (in ppm) of the air stream in the capture system prior to the RTO; and

WHEREAS, Condition 6.1 of the Permit requires all test results to be submitted to the Division within sixty (60) days of the completion of testing; and

WHEREAS, Condition 7.2 of the Permit requires that the Company use methods provided in 40 CFR 63 Subpart WWWW, or in Appendix H of the Division's "Procedures for Testing and Monitoring Sources of Air Pollutants" to calculate monthly VOC emissions. Such methods and procedures require that the Company account for the specific resin and/or gel coat application techniques and/or methods used among other factors; and

WHEREAS, Condition 7.2 of the Permit requires the Company to multiply the VOC destruction efficiency established by the most recent performance test of the RTO by the daily amount of VOC routed to the RTO to determine the amount of VOC destroyed daily and for any three hour period during which the average combustion zone temperature is more than 50°F below the average temperature established in the most recent performance test, the destruction efficiency shall be considered zero percent; and

WHEREAS, Condition 7.3 of the Permit requires that the Company use the calculated monthly VOC emissions to calculate total consecutive 12-month period VOC emissions and to notify the Division in writing if the total VOC emissions exceed 25 tons during any consecutive 12-month period by the fifteenth day of the following month including an explanation of how the Company intends to attain future compliance with the emission limit in Condition 2.1; and

WHEREAS, Condition 7.5 of the Permit requires that the Company demonstrate compliance by accounting for the specific resin and/or gel coat application techniques and/or methods used among other factors; and

WHEREAS, the Division conducted a compliance inspection of the Facility on June 11, 2014, and determined the following as a result of information collected:

- A proposed test deadline for a second VOC destruction efficiency test on the RTO based on the estimated upgrade project completion date had not been provided after several unanswered e-mails requesting the status of this project;
- The reason or explanation for the delay or change in the natural gas upgrade project completion date from February 2014 had not been provided;
- A copy of any agreements, contracts, and/or written correspondence made between the Facility, Cherokee Office of Economic Development, Georgia Natural Gas, and/or AGL Resources regarding the natural gas supply upgrade project had not been provided;
- Containers storing HAP-containing materials and mixer covers were not kept closed or covered during times when materials were not being added or removed;
- The RTO temperature was not maintained at a temperature of 1500°F prior to the initial performance test for most of November 2013 nor at a post initial performance test minimum temperature of 1335°F for most of November and December 2013;
- RTO temperature charts for January 1, 2014, through June 11, 2014, were not provided after being requested by e-mail several times;
- The Company had no monitoring records for the VOC capture system fan speed and VOC concentration prior to the RTO;
- The monthly and total consecutive 12-month period VOC emissions calculations for September 2013 through June 2014 needed to be revised in accordance with Permit Conditions 7.2 and 7.5;
- The spray guns used in booths SB1 and SB3 were described as atomized during the inspection, while it appeared that emission factors for non-atomized spray guns were used in the emission calculations; and

WHEREAS, the Division received information from AGL Resources regarding the natural gas pipeline addition to supply extra gas capacity for the RTO on July 11, 2014. According to AGL Resources, the pipeline construction completion date is estimated for mid-October 2014; and

WHEREAS, on August 6, 2014, the Division issued a Notice of Violation (hereinafter called "NOV") alleging violations of Condition 3 of the Order and Conditions 2.8, 3.1, 4.1, and 5.1 of the Permit. The NOV requested submittal of the following information within 15 days of receipt of the NOV:

- A proposed test deadline for a second VOC destruction efficiency test on the RTO based on the estimated upgrade project completion date;
- The reason or explanation for the delay or change in the natural gas upgrade project completion date from February 2014 to October 2014;
- A copy of any agreements, contracts, and/or written correspondence made between the Facility, Cherokee Office of Economic Development, Georgia Natural Gas, and/or AGL Resources regarding the natural gas supply upgrade project;
- A statement of how the Facility plans to correct the issue of open HAP containers, as discovered during the June 11, 2014, inspection;
- A copy of the RTO temperature charts for January 1, 2014, through June 11, 2014;
- A statement of how the Facility plans to monitor VOC capture system fan speed and VOC concentration prior to the RTO;
- A copy of the monthly and total consecutive 12-month period VOC emissions calculations for September 2013 through June 2014 revised in accordance with Permit Condition 7.2b.iii;
- A determination of the spray guns used in SB1 and SB3 and any calculations that may be affected by a determination other than what has been used in previous calculations;
- Any other information the Company considers relevant to the alleged violation; and

WHEREAS, the Division received the Company's response to the NOV on August 26, 2014, which states or provides the following:

- A test deadline for a second VOC destruction efficiency test on the RTO based on the estimated upgrade project completion date was provided as no later than 30 days after connection to the upgraded line is made.
- The delay in the natural gas upgrade was due to a dispute with Atlanta Gas Light Resources Company (AGL) and Georgia Natural Gas (GNG) over the responsibility for the $150,000 cost of the upgrade. AGL and GNG refused to complete the upgrade unless the Company paid for it, and the Company could not accept an unexpected expenditure of $150,000. On

June 6, 2014, AGL agreed that the Company should not be required to pay for the upgrade and to resubmit the upgrade project to their engineering and planning teams for determination of a new estimated completion date. On July 10, 2014, AGL indicated that the upgrade would be completed in mid-October 2014. However, as of the date of the NOV response, the construction of the pipeline had not yet begun;

- A copy of some correspondence made between the Company, Cherokee Office of Economic Development, and/or AGL Resources, which did not include any agreements and/or contracts regarding the natural gas supply upgrade project, nor any correspondence involving Georgia Natural Gas;
- A statement of how the Facility plans to correct the issue of open HAP containers was provided as implementation of a four-step disciplinary policy;
- A copy of the RTO temperature charts for January 1, 2014, through June 11, 2014, were provided in an electronically visible format only;
- A statement of how the Facility plans to monitor VOC capture system fan speed and VOC concentration prior to the RTO was not provided. The Company states that it understood that the fan speed and VOC monitoring requirements would no longer be necessary once the Company demonstrated that most of the Facility's operations were conducted within a permanent total enclosure (hereinafter called "PTE"), which it did in December 2013;
- A copy of the monthly and total consecutive 12-month period VOC emissions calculations for September 2013 through June 2014 revised in accordance with Permit Condition 7.2b.iii were provided and show that the Company exceeded the 25 tons per consecutive 12-month period VOC emission limit for the Facility for March through August 2014 as well as projected to exceed it for September 2014;
- A determination of the spray guns used in SB1 and SB3 since October 2013 being atomized instead of non-atomized as assumed in the prior calculations. The revised calculations submitted with the NOV response was stated as also revised accordingly for atomized spray guns as well;
- Other information the Company considers relevant to the alleged violation was provided seeking to further explain the unforeseen events that simultaneously prevented compliance with the Consent Order and the Facility's total consecutive 12-month period VOC emissions limit of 25 tons, but also reduced emission rates at the Facility to levels that no longer require RTO operation to comply with the 25-ton limit; and

WHEREAS, the Company's NOV response states that in short, the Company believes that the RTO is no longer needed to ensure compliance with its air permit limits, particularly in light of measures underway at the Facility to further reduce actual VOC emissions, and it requests a meeting with the Division as soon as possible to resolve the compliance concerns and discuss the compliance status and future of the Facility; and

WHEREAS, the Division met with the Company on September 3, 2014, in response to its request in the NOV response; and

WHEREAS, the Division had a conference call with the Company on September 12, 2014, in response to its request to discuss updated information related to a re-evaluation of the 2014 RTO temperature charts after which the Company electronically submitted a proposed compliance plan (hereinafter called the "Plan"); and

WHEREAS, on September 23, 2014, the Division requested emissions calculations and an explanation of the calculations to support the estimated maximum emissions of 30.4 tons of VOC per 12-month period provided as the basis of the Plan along with monthly and 12-month emissions calculated for July and August 2014; and

WHEREAS, the Division received the requested information from the Company's consultant, EPS, on September 23, 2014; and

WHEREAS, the Division informed the Company by phone on September 29, 2014, and by e-mail on October 1, 2014, that the Plan did not appear to be acceptable as proposed and provided options for the acceptable use of emission reduction credits (hereinafter called "ERCs") proposed in the Plan; and

WHEREAS, on October 1, 2014, the Division received the Company's notification by phone that it had scheduled to conduct DRE testing on the RTO at lower temperatures than previously tested for October 9, 2013, with setup on October 8, 2014; and

WHEREAS, the Division had a conference call with the Company on October 6, 2014, to discuss its reaction to the Division's options for the acceptable use of ERCs; and

WHEREAS, later on October 6, 2014, the Company submitted a response to the Division's options for the acceptable use of ERCs stating that neither of the options appear to be viable for the Company; and

WHEREAS, the Company submitted preliminary test results and an emissions update letter on October 14, 2014, which show that the total consecutive 12-month period VOC emissions calculated for May through August 2014 exceeded the 25 tons limit, but by smaller amounts than previously reported, and less than the limit for September 2014; and

WHEREAS, the Division had a conference call with the Company on October 15, 2014, to discuss its preliminary test results and an emissions update letter; and

WHEREAS, the Company submitted a letter to the Division's Stationary Source Permitting Program on October 16, 2014, which requests a revision to its Permit to confirm that the RTO is not needed; and

WHEREAS, the Company submitted a letter to the Division's Stationary Source Compliance Program on October 22, 2014, which requests an allowance to shut down the RTO; and

WHEREAS, the Division deemed the Company's request to revise the Permit as a complete application on October 29, 2014; and

VIOLATIONS

WHEREAS, the Division has determined that the Company failed to conduct a second VOC DRE test in a timely manner as required by Condition 3 of the Order; failed to prevent the discharge into the atmosphere, from the entire facility, volatile organic compounds (VOC) in an amount equal to or exceeding 25 tons during any consecutive 12-month period for four months as required by Condition 2.1; failed to keep containers that store HAP-containing materials closed or covered except during the addition or removal of materials as required by Condition 2.8; failed to take all reasonable precautions to prevent fugitive emissions of air contaminants as required by Condition 3.1; failed to operate the RTO so as to achieve compliance with the limit in Condition 2.1 as required by Condition 4.1; failed to install, calibrate, maintain, and operate monitoring devices to continuously monitor and record the VOC capture system fan speed and VOC concentration of the air stream in the capture system prior to the RTO for the year prior to discussing the possibility of a PTE with the Division as required by Condition 5.1; failed to maintain adequate VOC emission calculations as required by Conditions 7.2 and 7.5 of the Permit prior to being informed by the Division to revise the calculations to account for lower than tested RTO temperatures and the use of atomized versus non-atomized spray guns; failed to notify the Division in writing that the total VOC emissions equaled or exceeded 25 tons for consecutive 12-month periods ending with May, June, July, and August 2014 by the fifteenth day of the following month as required by Conditions 7.3 due to inadequate calculations; and

CIVIL PENALTIES

WHEREAS, the Act provides that any person violating any provision of the Act or any permit condition or limitation established pursuant to this Act or failing or refusing to comply with any final order of the Director shall be liable for a civil penalty of not more than $25,000.00 per day for each separate violation; and

CONDITIONS

WHEREAS, an amicable disposition of these allegations concerning the circumstances reflected in this Consent Order is considered to be in the best interest of the citizens of the State of Georgia; and

WHEREAS, both the Company and the Division wish to cooperate fully to resolve the issues in this Order; and

NOW, THEREFORE, before taking any testimony and without adjudicating the merits of the parties' position in this matter, and without admission or assignment of liability by or to the Company, the parties hereby resolve the issues in this case by agreement and upon the order of the Director and the consent of the Company as follows:

1. The Respondent shall upon execution of this Order pay to the State of Georgia the sum of $7,500 in settlement for the violations of the Rules alleged by this Order and set forth herein. This payment shall be made payable to the Georgia Department of Natural Resources and submitted to the following address:

   Georgia Department of Natural Resources
   Environmental Protection Division, Air Protection Branch
   4244 International Parkway, Suite 120
   Atlanta, Georgia 30354

2. Upon receipt of the executed Order and payment of the penalty in Condition 1, the Company may discontinue operation of the RTO.
3. The Company shall submit monthly notifications of the monthly and total consecutive 12-month period VOC emissions calculations for October through December 2014 by January 15, 2015, to document that compliance has been maintained on a consistent basis.
4. The Company shall submit a proposed monitoring plan for demonstrating continued compliance with the PTE criteria within 30 days after receipt of the proposed Order.
5. This Consent Order, upon execution, shall supersede and terminate Consent Order No. EPD-AQC-6708.

The Respondent and the Division enter into and execute this Consent Order solely for the purpose of resolving and disposing of the allegations set forth herein. This Order shall not constitute any finding, or determination or adjudication of a violation of any state laws, rules, standards, or requirements, nor does it constitute a finding or adjudication of liability to a third party or parties. However, nothing in this Consent Order may be used to prejudice the Respondent by being used as evidence of a violation or violations in any subsequent action for the purpose of seeking additional relief or penalties with respect to

the liability of the Respondent resolved by this Consent Order. Nothing in this Consent Order shall be construed as an admission of liability with respect thereto. By agreeing to this Consent Order, the Respondent does not admit or acknowledge any violation or potential violation and admits no liability of any sort to any party whatsoever.

This Order does not waiver the Division's authority to take further enforcement action, or imply that the Division will not take such action, if the respondent fails to fully satisfy the conditions of this Order, or fully comply with other relevant requirements.

By agreement of the Parties, this Consent Order shall be considered final and effective immediately and shall not be appealable and the Respondent does hereby waive any hearings on the terms and conditions of the same.

IT IS SO ORDERED, and **AGREED** to this ___ day of _____, 2014.

MARK A. ANDERSON
FOR THE RESPONDENT:
Name: _____
Title: CEO
Date: 11-13-14

FOR THE DIVISION:

_____
Judson H. Turner
Director