

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

Office of General Counsel, Region 4  
1130 North Westcott Road, Schenectady, NY 12306-2014  
P: (518) 357-2048 | F: (518) 357-2087  
www.dec.ny.gov

CERTIFIED - RETURN RECEIPT REQUESTED  
7015 0640 0005 8292 9846

July 25, 2016

Kim Mosher  
Cranesville Block Co., Inc  
1250 Riverfront Center  
Amsterdam, NY 12010

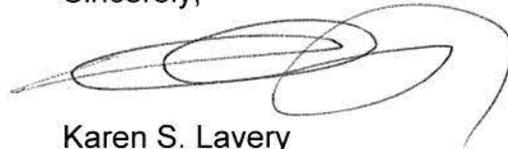
Re: Order on Consent  
R4-2016-0616-112

Dear Ms. Mosher:

Enclosed please find a copy of the fully executed Order on Consent referenced above.

This will also acknowledge receipt of \$1,000 the civil penalty pursuant to Paragraph I.

Sincerely,



Karen S. Lavery  
Assistant Regional Attorney  
Region 4

Enclosure

ec: G. McPherson  
M. Lanzafame

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of  
Violations of Article 19  
of the Environmental  
Conservation Law of the  
the State of New York by:

-by-

Order on Consent  
File No. R4-2016-0616-112

Cranesville Block Co., Inc.  
1250 Riverfront Center  
Amsterdam, NY 12010

Respondent

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WHEREAS:

**JURISDICTION**

1. Pursuant to Environmental Conservation Law ("ECL") Article 19, the Department of Environmental Conservation ("Department" or "DEC") is the State agency which has jurisdiction over the environmental law and policy of the State pursuant to, *inter alia*, §3-0301 of the ECL.
2. Pursuant to ECL Article 19, the New York State Department of Environmental Conservation has administrative jurisdiction to safeguard the air resources of the state from pollution.

**RESPONDENT**

3. Respondent, Cranesville Block Co., Inc., is a commercial and residential supplier of concrete products with a location at 774 State Highway 5S, Florida, New York ("site")
4. Respondent is a "person" as defined at 6 NYCRR 200.1(bi).
5. On June 10, 2016, Department staff conducted an inspection of the site. At that time, Department staff observed an unpermitted large vertical combustion unit consisting of a vertical tank which had been modified to include a stack. The purpose of the unit was for the disposal of broken pallets and other miscellaneous solid waste which was attached to them.
6. At the time of the inspection, the combustion unit was operating and there was a heavy particulate plume coming from the stack and the door of the unit which had a consistent opacity in excess of 20 percent for the duration of the inspection.

## **VIOLATIONS**

7. Regulations at 6 NYCRR §201-1.2(a) provide that “*except as otherwise provided by this Part, construction or operation of a new, modified or existing air contamination source without a registration or permit issued pursuant to this Part is prohibited.*”
8. Respondent’s construction and operation of the unpermitted air contamination source is a violation of regulations at 6 NYCRR §201-1.2(a).
9. Regulations at 6 NYCRR §227-1.3(a) provide that “*no person shall operate a stationary combustion installation which exhibits greater than 20 percent opacity (six minute average), except for one six-minute period per hour of not more than 27 percent opacity.*”
10. Respondent’s operation of the stationary combustion unit in excess of 20 percent opacity is a violation of regulations at 6 NYCRR §227-1.3(a).

## **CIVIL PENALTY**

11. Section 71-2103 generally provides for a civil penalty of not less than \$375 and not more than \$18,000 for each violation of Article 19 or any code, rule or regulation which was promulgated thereto.

## **WAIVER OF HEARING**

12. Respondent hereby affirmatively waives its right to a hearing in the manner provided by law, consent to the issuance and entry of this Order and agree to be bound by the terms, provisions, and conditions contained herein.

NOW, being duly advised and having considered this matter, IT IS HEREBY ORDERED THAT:

- I. With respect to the aforesaid alleged violation, a civil penalty in the amount of FOUR THOUSAND DOLLARS (\$4,000) is hereby assessed against the Respondent of which ONE THOUSAND DOLLARS (\$1,000) shall be payable to the New York State Department of Environmental Conservation by money order, or certified check at the time this Order is signed, notarized and returned to the Department.

The balance (\$3,000) shall be suspended so long as Respondent shall comply with the Schedule of Compliance.

In the event that Respondent fails to comply with the requirements of this Order the entire suspended portion of the penalty shall become due and payable upon written notice to Respondent without prejudicing the Department from seeking further appropriate penalties for violations of this Order by the Respondent.

- II. Pursuant to ECL Section 71-0301, the Commissioner specifically reserves the right to exercise summary abatement authority.

III. This Order is binding upon the Respondent, its agents, employees, successors, assigns and to all persons and firms, and corporations acting subordinate thereto.

IV. All communications to the Department except where otherwise specifically directed should be sent to:

New York State Department  
of Environmental Conservation  
Region 4 - Air Division Attn: RAPCE  
1130 North Westcott Road  
Schenectady, New York 12306  
518-357-2350

V. No change or modification to this Order shall be made or be effective except as may be specifically set forth in writing by the Commissioner or Regional Director. Such application shall be made to the Regional Director.

VI. For the purpose of insuring compliance with this Order, duly authorized representatives of this Department shall be permitted access to the site in question in order to inspect as may be deemed necessary to determine the status of Respondent's compliance herewith.

VII. The effective date of this Order shall be the date upon which it is signed on behalf of the Department.

VIII. Respondent shall indemnify and hold the Department, the State of New York, and its representatives and employees harmless for all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of the provisions hereof by Respondent, its - employees, servants, agents, successors or assigns.

IX. Except as specifically provided in this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting:

A. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State may have against Respondent for any other violations of the ECL, rules or regulations promulgated thereunder or permits issued thereunder;

B. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State may have against anyone other than Respondent, its agents, servants, employees, successors and assigns;

C. Whatever right the Department has to bring any action or proceeding against Respondent and/or any of Respondent's employees, servants, agents, successors, and assigns with respect to claims for natural resource damages; and

D. Respondent's right to assert all available defenses to any claims, actions, proceedings, suits, causes of actions or demands made or commenced by the State or the Department provided, however, that Respondent waives all legal or equitable rights claims, actions, proceedings, appeals, suits, causes of action, defenses or demands whatsoever that he may have to a judicial review of the validity and binding effect of this Order and whether or not this Order has been entered into voluntarily by Respondent.

X. Compliance with the terms and conditions of this Order, including the Schedule of Compliance, shall be in full civil settlement of the violations in this Order.

DATED: *July 22*, 2016  
Rotterdam, New York

Basil Seggos  
Commissioner  
New York State Department of  
Environmental Conservation

BY:

  
\_\_\_\_\_  
Keith Goertz  
Regional Director  
Region 4

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waives its right to notice and hearing herein and agrees to be bound by the provisions, terms and conditions contained herein.

Cranesville Block Co., Inc.

SIGNED:

Kimberly A. Mosher

DATE:

July 19, 2016

STATE OF New York)

COUNTY OF Montgomery) ss.:

On the 19<sup>th</sup> day of July in the year 2016 before me, the undersigned, a Notary Public in and for the State, personally appeared Kimberly A. Mosher personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Kathleen Bonfey  
Notary Public

Qualified in the County of: Montgomery  
My Commission Expires: 4/1/18

KATHLEEN BONFEY  
STATE OF NEW YORK  
COMMISSIONER OF DEEDS  
Qualified in Montgomery County  
Commission Expires April 01, 2018

## **SCHEDULE OF COMPLIANCE**

- 1) Effective immediately, Respondent shall permanently cease operation of the combustion unit and render it incapable of use.