



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
**APR 15 2015**

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Dale C. Hoette  
Vice President  
Bluff City Minerals  
4007 College Avenue  
Alton, Illinois 62002

Dear Mr. Hoette:

Enclosed is a copy of the file-stamped Consent Agreement and Final Order (CAFO) which resolves Bluff City Minerals, docket no. CAA-05-2015-0029. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on

April 15, 2015.

Pursuant to Paragraph 59 of the CAFO, Bluff City Minerals must pay the civil penalty within 30 days of May 15, 2015. Your check must display the case name "Bluff City Minerals" and case, docket number CAA-05-2015-0029.

Please direct any questions regarding this case to Robert H. Smith at (312) 886-0765.

Sincerely,

*Brian Dickens*

Brian Dickens  
Chief  
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J  
Regional Hearing Clerk/E-19J  
Robert H. Smith/C-14J  
Eric Jones/IEPA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:

Bluff City Minerals  
Alton, Illinois,

Respondent.



Docket No. CAA-05-2015-0029

Proceeding to Assess a Civil Penalty  
Under Section 113(d) of the Clean Air Act,  
42 U.S.C. § 7413(d)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Bluff City Minerals, a corporation doing business in Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

### **Statutory and Regulatory Background**

9. Section 108(a)(1) of the Act, 42 U.S.C. § 7408(a)(1), requires the Administrator to publish, and from time to time revise, a list which includes each air pollutant: (A) emissions of which, in the Administrator's judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare; (B) the presence of which in the ambient air results from numerous or diverse mobile or stationary sources; and (C) for which air quality criteria had not been issued before the date of enactment of the CAA of 1970, but for which the Administrator plans to issue air quality criteria under this section.

10. Section 108(a)(2) of the Act, 42 U.S.C. § 7408(a)(2), requires the Administrator to issue air quality criteria for an air pollutant after it is included in the list required by Section 108(a)(1).

11. Section 109 of the Act, 42 U.S.C. § 7409, requires the Administrator to promulgate national primary and secondary ambient air quality standards (NAAQS) requisite to protect the public health and welfare.

12. Section 110 of the Act, 42 U.S.C. § 7410, requires each state to adopt and submit to the Administrator for approval a state implementation plan (SIP) that provides for the attainment and maintenance of the NAAQS.

13. The Administrator approved Illinois Pollution Control Board (IPCB) Rule 203(f) as part of the Illinois State Implementation Plan (IL SIP) on February 21, 1980 with an effective date of February 21, 1980, as amended on April 26, 1982, with an effective date of May 26,

1982. 45 Fed. Reg. 11472, 11493, as amended, 47 Fed. Reg. 17814, 17816.

14. The Administrator approved 35 Illinois Administrative Code (IAC) § 211.4970 as part of the IL SIP on January 26, 1996, with an effective date of March 26, 1996.

61 Fed. Reg. 2423, 2427.

15. The Administrator approved 35 IAC § 212.309 as part of the IL SIP on July 14, 1999, with an effective date of September 13, 1999. 64 Fed. Reg. 37847, 37851.

16. The Administrator approved Illinois' Federally Enforceable State Operating Permit Program as part of the IL SIP on December 17, 1992, with an effective date of February 16, 1993. 57 Fed. Reg. 59928.

17. The Administrator granted final approval of the Illinois Title V Permit Program on December 4, 2001, with an effective date of November 30, 2001. 66 Fed. Reg. 62946.

18. Section 111(b)(1)(A) of the Act, 42 U.S.C. § 7411(b)(1)(A), requires the Administrator to publish, and from time to time revise, a list of categories of stationary sources which in the Administrator's judgment cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare.

19. Section 111(b)(1)(B) of the Act, 42 U.S.C. § 7411(b)(1)(B), requires the Administrator to propose and promulgate regulations establishing federal standards of performance for new sources within the listed stationary source categories.

20. The Administrator published a list of source categories in accordance with Section 111 of the Act, 42 U.S.C. § 7411, on January 8, 1982. 47 Fed. Reg. 951 (codified at 40 C.F.R. § 60.16).

21. The prioritized list of source categories includes Non-Metallic Mineral Processing (priority 13). 40 C.F.R. § 60.16.

22. The Administrator promulgated the General Provisions of 40 C.F.R. Part 60, Subpart A on December 23, 1971. 36 Fed. Reg. 24877 (codified at 40 C.F.R. Part 60,

Subpart A).

23. The Administrator promulgated Standards of Performance for Nonmetallic Mineral Processing Plants on August 1, 1985, as amended April 28, 2009. 50 Fed. Reg. 31328, as amended, 74 Fed. Reg. 19309.

24. Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), states that whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of an applicable implementation plan or permit, the Administrator shall notify the person and the State in which the plan applies of such finding. At any time after the expiration of 30 days following the date on which such notice of a violation is issued, the Administrator may, (A) issue an order requiring such person to comply with the requirements or prohibitions of such plan or permit, (B) issue an administrative penalty order, or (C) bring a civil action in accordance with Section 113(b) of the Act, 42 U.S.C. § 7413(b).

25. Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), states that whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any other requirement or prohibition of this subchapter, section 7603 of this title, subchapter IV-A, subchapter V, or subchapter VI of this chapter, including but not limited to, a requirement or prohibition of any rule, plan, order, waiver, or permit promulgated, issued or approved under those provisions or subchapters . . . the Administrator may (A) issue an administrative penalty order, (B) issue an order requiring such person to comply with such requirement or prohibition, (C) bring a civil action, or (D) request the Attorney General to commence a criminal action.

26. The Administrator promulgated 40 C.F.R. § 52.23 on September 18, 1974, as amended, June 28, 1989. 39 Fed. Reg. 33512, as amended, 54 Fed. Reg. 27274, 27285.

27. 40 C.F.R. § 52.23 states that failure to comply with any provisions of this part,

with any approved regulatory provision of a State implementation plan, or with any permit limitation or condition contained within an operating permit issued under an EPA-approved program. . . shall render the person. . . so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under Section 113 of the CAA, 42 U.S.C. § 7413.

28. The IL SIP requirements relevant to this CAFO are as follows:

- a. IPCB Rule 203(f)(1) [35 IAC § 212.301] states that no person shall cause or allow the emissions of fugitive particulate matter from any process, including any material handling or storage activity, that is visible by an observer looking generally toward the zenith at a point beyond the property line of the emission source.
- b. IPCB Rule 203(f)(3)(C) [35 IAC § 212.306] states that all normal traffic pattern access areas surrounding storage piles and all normal traffic pattern roads and parking facilities which are located on mining or manufacturing property shall be paved or treated with water, oils, or chemical dust suppressants. All paved areas shall be cleaned on a regular basis. All areas treated with water, oils, or chemical dust suppressants shall have the treatment applied on a regular basis, as needed, in accordance with the operating program required by rule 203(f)(3)(F).
- c. 35 IAC § 212.309 states that the emission units described in Sections 212.304 through 212.308 and Section 212.316 of this Subpart shall be operated under the provisions of an operating program. Such operating program shall be designed to significantly reduce fugitive particulate matter emissions.
- d. IPCB Rule 203(f)(3)(F) [35 IAC § 212.310(e)-(g)] establishes the

minimum requirements of the operating program which includes: a detailed description of the best management practices utilized to achieve compliance with this Subpart, including an engineering specification of particulate collection equipment, application systems for water, oil, chemicals, and dust suppressants utilized and equivalent methods utilized; estimated frequency of application of dust suppressants by location of materials; and such other information as may be necessary to facilitate the Agency's review of the operating program.

- e. 35 IAC § 211.4970 defines "Potential to Emit" as the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restriction on hours of operation or on a type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is federally enforceable.

29. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), states that after the effective date of any permit program approved or promulgated under this title, it shall be unlawful for any person to violate any requirement of a permit issued under this title, or to operate an affected source, a major source, any other source subject to standards or regulations under Section 111 or 112, 42 U.S.C. §§ 7411 or 7412, except in compliance with a permit issued by a permitting authority under this title.

30. Section 503(a) of the Act, 42 U.S.C. § 7661b(a) states that any source specified in section 502(a) shall become subject to a permit program, and required to have a permit, on the later of the effective date of a permit program or the date such source becomes subject to section 502(a), 42 U.S.C. § 7661a(a).

31. Section 503(c) of the Act, 42 U.S.C. § 7661b(c) states that any person required to have a permit shall, not later than 12 months after the date on which the source becomes subject to a permit program approved or promulgated under this title, submit to the permitting authority a compliance plan and an application for a permit signed by a responsible official.

32. Section 504(a) of the Act, 42 U.S.C. § 7661c(a) states that each permit issued under this title shall include enforceable emission limitations and standards, a schedule of compliance, a requirement that the permittee submit to the permitting authority, no less often than every 6 months, the results of any required monitoring, and such other conditions as are necessary to assure compliance with applicable requirements of this Act, including the requirements of the applicable implementation plan.

33. The requirements of the General Provisions to 40 C.F.R. Part 60, Subpart A and 40 C.F.R. Part 60, Subpart OOO relevant to this CAFO are as follows:

- a. 40 C.F.R. § 60.7(a)(3) requires any owner or operator subject to the provisions of this part to furnish to the Administrator a notification of the actual date of initial startup of an affected facility postmarked within 15 days after such date.
- b. 40 C.F.R. § 60.7(a)(4) requires a notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies. This notice must be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change.



- c. 40 C.F.R. § 60.11(b) requires compliance with opacity standards in this part shall be determined by conducting observations in accordance with Method 9 in Appendix A to this part.
- d. 40 C.F.R. § 60.11(d) requires at all times, including periods of startup, shutdown, and malfunction owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions.
- e. 40 C.F.R. § 60.11(e)(1) requires, for purposes of demonstrating initial compliance, that opacity observations be conducted within 60 days after achieving the maximum production rate at which the affected facility will be operated but no later than 180 days after initial startup of the facility.
- f. BCM has one or more affected facilities identified at 40 C.F.R. § 60.670(a)(1).
- g. BCM has one or more affected facilities that commenced construction, modification, or reconstruction after August 31, 1983.  
40 C.F.R. § 60.670(e).
- h. BCM has one or more affected facilities that commenced construction, modification, or reconstruction after April 22, 2008.
- i. 40 C.F.R. § 60.670(f) states that Table I of this Subpart specifies the provisions of Subpart A of this Part 60 that apply to affected facilities with certain exceptions.
- j. 40 C.F.R. § 60.672(b) requires affected facilities to meet the fugitive

emission limits and compliance requirements in Table 3 of this Subpart within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup as required under 40 C.F.R. § 60.11.

- k. 40 C.F.R. § 60.675(c)(1) states, in determining compliance with the particulate matter standards in 40 C.F.R. §§ 60.672(b) or 60.672(e)(1), the owner or operator shall use Method 9 of Appendix A-4 of this part and the procedures in 40 C.F.R. § 60.11.
- l. 40 C.F.R. § 60.676(i)(1) requires a notification of the actual date of initial startup of each affected facility to be submitted to the Administrator. The notification shall be postmarked within 15 days after such date and shall include a description of each affected facility, equipment manufacturer, and serial number of the equipment, if available.
- m. 40 C.F.R. Part 60, Subpart OOO, Table 1 states that 40 C.F.R. § 60.7 applies to Subpart OOO except the requirement to submit a notification of the date construction commenced or reconstruction commenced.
- n. 40 C.F.R. Part 60, Subpart OOO, Table 1 states that 40 C.F.R. § 60.11 applies except that Method 9 observation is reduced from 3 hours to 30 minutes.
- o. 40 C.F.R. Part 60, Subpart OOO, Table 3 establishes fugitive emission limitations for affected facilities that commenced construction, modification, or reconstruction after August 31, 1983, but before April 22, 2008, as well as affected facilities that commence construction,

reconstruction, or modification after April 22, 2008.

- p. 40 C.F.R. Part 60, Subpart OOO, Table 3 requires the owner or operator of affected facilities that commence construction, modification, or reconstruction on or after April 22, 2008, demonstrate compliance with applicable fugitive emission limitations by conducting an initial performance test according to 40 C.F.R. § 60.11 of this part and 40 C.F.R. § 60.675 of this subpart.

34. Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), states whenever, on the basis of any information available to the Administrator of EPA, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of this subchapter, the Administrator may issue a penalty order in accordance with subsection (d). This authority has been delegated to the Regional Administrator. EPA Delegation 7-6-A, 8/9/94; Region 5 Delegation 7-6-A, 2/4/00.

35. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009 through December 6, 2013 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19. The Civil Monetary Inflation Adjustment Rule, 78 Fed. Reg. 66643 (November 6, 2013), retains the Statutory Maximum Penalty at \$37,500 per day for each violation, but increases the total Statutory Maximum Penalty addressed through an Administrative action to \$320,000 for violations occurring after December 6, 2013.

36. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United

States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

37. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

**Factual Allegations and Alleged Violations**

38. Respondent owns and operates an aggregate processing plant at 4007 College Avenue, Alton, Illinois (Facility).

39. The Facility is a stationary source as defined in the Illinois SIP, 40 C.F.R. § 60.2 and the CAA.

40. The Facility is a nonmetallic mineral processing facility as that term is defined at 40 C.F.R. § 60.671.

41. The Facility has one or more affected sources as that term is defined at 40 C.F.R. § 60.670(a)(1).

42. The following table identifies affected sources that the Facility commenced construction, modification, or reconstruction on or after August 31, 1983, based on a letter dated August 3, 2012, from Fred Weber Inc. [the parent company of Bluff City Minerals] to Mr. David Bloomberg at the Illinois Environmental Protection Agency.

Unit Number	Year
292511	1995
292546	2005
Belt 15.5	2006
Belt 13 (292509)	1995
292508	1995
292506	2011 (Modified)
292408	1995
292510	1995
Belt OS-2	2002

292202	1995
292507	2011
292505	1997 and 2011 (Modified)
292512	1997
292513	1997
292400	2000
292518	2002
292517	1997
292538	1997
292522	1997
292527	1997
292519	1997
292526	1997
292524	1997
292523	1997
292529	1997
292514	2011
Lime stacker belt	2002
292814	2005
292545	2005
292414	2005
Belt 6A	2012
291219	2011
292103	2007
Belt 3	2011
292408	1995

43. The Facility commenced construction, reconstruction, or modification of the following equipment after April 22, 2008: 292505, 292506, 292507, 292514, 291219, Belt 3, and Belt 6A.

44. The Facility has a Lifetime General Operating Permit for Aggregate Processing Plant that was issued September 28, 2000.

45. The Facility does not have a Federally Enforceable State Operating Permit issued in accordance with an approved Title V permitting program.

46. The Facility does not have a Title V permit issued in accordance with an approved Title V permitting program.

47. The Facility has a fugitive dust operation program dated January 16, 2001 (at that time the facility was Mississippi Lime Company).

48. The January 16, 2001 fugitive dust operation program states, among other things:

- a. Additional water is added to the stone after crushing and sizing.
- b. The wet suppression systems assure that 90% plus control is provided during the growth of the storage piles.
- c. Asphalt roadways throughout the plant and leading to Route 140 are pressure washed.
- d. Heavily travelled unpaved, off road areas around the stockpiles where customer trucks are loaded are sprayed down during dry conditions to reduce the generation of fugitive dust.

49. EPA conducted an inspection at the Facility on March 12, 2014.

50. EPA informed the Facility during the close out meeting on March 12, 2014, of some general areas of concern including maintenance practices and that an overall facility clean-up plan may be needed.

51. The Facility submitted a letter dated April 9, 2014 to Mr. David Bloomberg of the Illinois Environmental Protection Agency.

52. The April 9, 2014 letter stated Fred Weber, Inc. is currently undergoing an internal audit at the Bluff City Minerals Acquisition, LLC – Alton Mines, initiated by a site visit made by EPA on March 12, 2014.

53. The April 9, 2014 letter states results of the audit to date indicate that exceedances have occurred at the site, in violation of permit conditions.

54. The April 9, 2014 letter also lists potential violations of the Lifetime General Operating Permit for Aggregate Processing Plant, actions taken, to date, to minimize fugitive emissions from sources at the site, recordkeeping practices, and establishment of a checks and balances system to assure ongoing compliance with permit terms and conditions.

55. The April 9, 2014 letter identifies, among others, the following:

- a. During EPA site visit, it was discovered that the VSI#1 crusher, conveyor belt 13, pep screen, and two screen discharge conveyors appeared to be exhibiting opacity greater than 10 percent (although a formal Method 9 assessment was not conducted).
- b. Following EPA's site visit, it was discovered that the baghouse booster fan that facilitates the draw of emissions from the VSI#1 crusher to the baghouse was not functioning properly.
- c. The surface moisture content of the aggregate as crushed was not being documented by either weekly records of moisture content sampling results or weekly records of water spray system inspections.
- d. EPA noted, during their site visit, that visible emissions crossed the property boundary on March 10<sup>th</sup>.
- e. Issues related to water sprays and the baghouse may be considered a violation of the Lifetime Operating Permits requiring all equipment at the source covered under the permit to be maintained in such a manner that the performance of such equipment shall not cause a violation of the [Illinois] Environmental Protection Act or regulations promulgated thereunder.

56. The facility violated the Illinois State Implementation Plan, 40 C.F.R. Part 60, Subpart OOO, and the CAA as follows:

- a. Particulate matter crossed the facility's property line on at least two occasions (March 10, 2014 and May 21, 2014) in violation of IPCB Rule 203(f)(1) [35 IAC § 212.301] of the IL SIP and the CAA.
- b. Visible emissions arose from stock piles and roadways within the facility and leading out of the facility without the sufficient application of water or other dust suppression techniques on at least three separate occasions (March 10, 2014, March 12, 2014, and May 21, 2014) in violation of IPCB Rule 203(f)(3)(C) [35 IAC § 212.306] of the IL SIP, 35 IAC § 212.309 of the IL SIP, and the CAA.
- c. Fugitive dust emissions arose from storage piles, affected facilities, and spills throughout the process area without the sufficient application of water or other dust suppression techniques to minimize fugitive dust emissions in violation of 40 C.F.R. § 60.11(d), 40 C.F.R. § 60.670(f)(1), 40 C.F.R. Part 60, Subpart OOO, Table 1, and the CAA.
- d. The Facility submitted certain notifications of the actual date of initial startup of affected facilities that were postmarked more than 15 days after such date in violation of 40 C.F.R. § 60.7(a)(3), 40 C.F.R. § 60.670(f)(1), 40 C.F.R. Part 60, Subpart OOO, Table 1, and the CAA.
- e. The Facility failed to submit some notifications of the actual date of initial startup of affected facilities in violation of 40 C.F.R. § 60.7(a)(3), 40 C.F.R. § 60.670(f)(1), 40 C.F.R. Part 60, Subpart OOO, Table 1, and



the CAA.

- f. The Facility failed to submit notifications of physical or operational changes to an existing facility which may increase the emission rate of any pollutant to which a standard applies that were postmarked within 60 days or as soon as practicable before the change is commenced in violation of 40 C.F.R. § 60.7(a)(4), 40 C.F.R. § 60.670(f)(1), 40 C.F.R. Part 60, Subpart OOO, Table 1, and the CAA.
- g. The Facility failed to conduct some initial testing to demonstrate compliance with the fugitive emission particulate matter standards within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup in violation of 40 C.F.R. § 60.11(e)(1), 40 C.F.R. § 60.675(c)(1), 40 C.F.R. Part 60, Subpart OOO, Table 3, and the CAA.
- h. The Facility neither applied for and obtained a Title V permit nor applied for and obtained a Federally Enforceable State Operating Permit (FESOP) when its potential emissions (considering federally enforceable limitations) are greater than 100 tons per year in violation of the IL SIP and the CAA.

57. EPA issued a Notice of Violation and Finding of Violation (NOV/FOV) to the Facility on August 7, 2014.

#### Civil Penalty

58. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and Bluff City Minerals' cooperation, efforts to

promptly return to compliance, and agreement to perform a supplemental environmental project, Complainant has determined that an appropriate civil penalty to settle this action is \$161,315. Bluff City Minerals will resolve this civil penalty by paying a cash civil penalty amount of \$40,329 and mitigating the remaining portion of the penalty by completing a supplemental environmental project costing Bluff City Minerals at least \$165,098.

59. Within 30 days after the effective date of this CAFO, Respondent must pay a \$40,329 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

For checks sent by express mail (non-U.S. Postal Service which won't deliver mail to P.O. Boxes) please use the following address instead:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101

The check must note Respondent's name and the docket number of this CAFO.

60. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Robert H. Smith (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

61. This civil penalty is not deductible for federal tax purposes.

62. If Respondent does not timely pay the civil penalty or any stipulated penalties due under paragraph 77, below, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

63. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

#### **Supplemental Environment Project**

64. Respondent must complete a supplemental environmental project (SEP) designed to protect the environment by installing and operating a new reverse air dust collector designed

to achieve at least 99 percent removal efficiency for particulate matter greater than or equal to 0.5 microns in diameter.

65. Respondent must complete this SEP as follows:
- a. Install a new reverse air dust collector to further reduce particulate matter emissions from the facility's VSI Crusher No. 291219 (located in the cone building), the Cone Feed Bin #3, and the conveyor transfer point from Conveyor #4 to Conveyor #5.
  - b. Install, operate, and maintain the new dust collector by no later than December 31, 2015. The dust collector must be installed, operated, and maintained in accordance with the specifications and deadlines set forth in this CAFO and Exhibit A to this CAFO, which is incorporated herein by reference.
  - c. Install, operate, and maintain a continuous monitoring system to measure pressure drop across the dust collection system. Pressure drop must be measured continuously during all periods of process unit operation, including periods of startup, shutdown, and malfunction, and must be recorded at least once per shift during all periods of operation.
  - d. Maintain records of pressure drop readings in a readily reviewable format onsite for at least two years and readily accessible for at least five years.
  - e. Conduct performance testing on the dust collector by no later than March 1, 2016. The performance testing must include inlet and outlet testing for particulate matter using EPA Reference Method 5 to determine the particulate matter removal efficiency of the dust collector. Performance

testing must also establish a pressure drop range across the dust collector within which the removal efficiency is achieved on a continuous basis. In lieu of performing inlet and outlet testing, Respondent may elect to conduct only outlet testing and establish a particulate matter emission limit for the dust collector as well as the pressure drop range across which the dust collector continuously achieves that emission limit.

66. Respondent must spend at least \$165,098 to purchase equipment and install the new reverse air dust collector.

67. Respondent must continuously operate the dust collector for at least three year(s) following its installation and startup.

68. Respondent certifies as follows:

I certify that Bluff City Minerals is not required to perform or develop the SEP by any law, regulation, order, or agreement or as injunctive relief as of the date that I am signing this CAFO. I further certify that Bluff City Minerals has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

I certify that Bluff City Minerals is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date that I am signing this CAFO (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not expired.

69. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

70. Respondent must maintain copies of the underlying research and data for all reports submitted to EPA pursuant to this CAFO. Respondent must provide the documentation of any underlying research and data to EPA within seven days of EPA's request for the information.

71. Respondent must complete the SEP installation and begin its operation no later than December 31, 2015.

72. Respondent must submit a SEP completion report to EPA no later than May 2, 2016. This report must contain, at a minimum, the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any installation, operation, or maintenance problems and the actions taken to correct the problems;
- c. Itemized cost of goods and services used to complete the SEP documented by copies of invoices, purchase orders, or cancelled checks that specifically identify and itemize the individual cost of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO;
- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible); and
- f. The final performance test report for the reverse air dust collector conducted in accordance with the requirements of Paragraph 65.e.

73. Respondent must submit all notices and reports required by this CAFO by first-class mail to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch and Robert H. Smith at the addresses provided in Paragraph 60.

74. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

75. Following receipt of the SEP completion report described above, EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under Paragraph 77.

76. If EPA exercises option b above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that EPA imposes in its decision. If Respondent does not complete the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under Paragraph 77, below.

77. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO, Respondent must pay a penalty of \$120,986.
- b. If Respondent completed the SEP satisfactorily, but spent less than 90 percent of the amount set forth in Paragraph 66, Respondent must pay a penalty of \$30,000.
- c. If Respondent did not timely submit the SEP completion report, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$500	1 <sup>st</sup> through 14 <sup>th</sup> day
\$1,000	15 <sup>th</sup> through 30 <sup>th</sup> day
\$1,500	31 <sup>st</sup> day and beyond

78. EPA's determinations that Respondent completed the SEP satisfactorily will bind Respondent.

79. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in Paragraphs 59 and 60, above, and will pay interest and nonpayment penalties on any overdue amounts.

80. Any public statement that Respondent makes referring to the SEP must include the following language: "Bluff City Minerals undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Bluff City Minerals for violations of the Clean Air Act."



81. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

**General Provisions**

82. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

83. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

84. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state, and local laws. Except as provided in Paragraph 82 of this CAFO, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

85. Respondent certifies that it is complying fully with the Clean Air Act and Illinois SIP.

86. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

87. The terms of this CAFO bind Respondent, its successors, and its assigns.


88. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

89. Each party agrees to bear its own costs and attorneys fees in this action.

90. This CAFO constitutes the entire agreement between the parties.

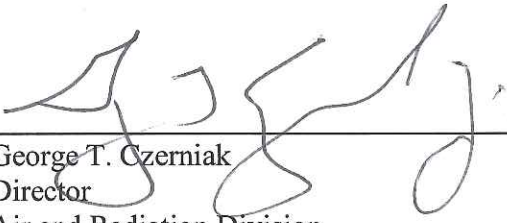
**Bluff City Minerals, Respondent**

4/1/2015  
Date

  
Dale C. Hoette, Vice President  
Bluff City Minerals

**United States Environmental Protection Agency, Complainant**

4/3/15  
Date

  
George T. Czerniak  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order  
In the Matter of: Bluff City Minerals  
Docket No. CAA-05-2015-0029**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

4-13-2015

Date



\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

EXHIBIT A

Specifications for the Installation of a Reverse Air Dust Collector  
as a Supplemental Environmental Project

- A. As a Supplemental Environmental Project (SEP), Respondent will install a reverse air dust collector to capture emissions from its VSI Crusher No. 291219, Cone Feed Bin #3, and conveyor transfer point from Conveyor #4 to Conveyor #5, located at the Alton, Illinois facility.
- B. The following schedule shall apply to this SEP project:
1. No later than 30 days after the effective date of this CAFO, Respondent must submit all necessary permit applications for the installation and operation of the dust collector.
  2. No later than 60 days after the effective date of this CAFO, Respondent must:
    - (a) Receive bids for the project;
    - (b) Review the bids;
    - (c) Choose a bid; and
    - (d) Submit a purchase order for all major equipment components necessary for the construction, installation, and maintenance of the new dust collector.
  3. No later than 180 days after the effective date of this CAFO, Respondent must receive all major equipment components for installation of the dust collector.

4. No later than December 31, 2015, Respondent must complete installation of and startup of the new dust collector.

5. No later than March 1, 2016, Respondent must conduct performance testing of the new dust collector in accordance with Paragraph 65.e. of this CAFO.

6. No later than May 2, 2016, Respondent must submit a SEP completion report in accordance with Paragraph 72 of this CAFO.

C. Respondent must submit quarterly reports to U.S. EPA describing the status of its compliance with the schedule in Paragraph B (1-6) of this Appendix. The first report must be submitted no later than 30 days after the end of each reporting calendar quarter (i.e. reports must be submitted April 30, 2015, July 30, 2015, October 30, 2015, and January 30, 2016), beginning 60 days after entry of this CAFO. The reports shall include all relevant information necessary to show compliance with the schedule in Paragraph B (1-6) of this Appendix, and any other requirements established in this CAFO in relation to SEP activities. The quarterly reports must, at a minimum, include the following information.

1. Report #1, submitted no later than April 30, 2015:

- (a) Copies of all bids received to date including the name of the individual or company supplying the bid and the date the bid was received by Respondent;
- (b) A written statement identifying the bid(s) accepted by Respondent;
- (c) A copy of the purchase order(s) submitted by Respondent for the equipment. The order(s) shall categorize all major equipment

components purchased and the costs of each piece of equipment (i.e. duct work, fan, monitors, bags, etc.); and

- (d) If the information required for this report has already been submitted, Respondent must submit a letter referencing the specific information and date it was submitted.

2. Report #2, submitted no later than July 30, 2015:

- (a) A list of any major equipment components received to date associated with this project;
- (b) The status of any major equipment components not received to date;
- (c) The anticipated date of receipt of any major equipment components not received to date; and
- (d) A list of any activities done in preparation for this project (i.e. any pre-construction activities that have occurred to date, permit applications submitted, etc.) and the dates such activities occurred.

3. Report #3, submitted no later than October 30, 2015:

- (a) A summary of any major equipment components received, including but not limited to relevant information regarding the design and operational specifications of the high-efficiency jet pulse dust collection system proposed for installation as required by Paragraphs 64 - 66 of the CAFO;
- (b) A summary of the dates each piece of equipment was received; and

(c) A list of any activities done in preparation for this project to date (not including those submitted with Report #2) and the dates such activities occurred.

4. Report #4, submitted no later than January 30, 2016:

(a) Date installation of dust collector was completed;

(b) Date of startup of dust collector; and

(c) Description of any installation, operation, or maintenance problems and the actions taken to correct the problems.

D. In connection with this dust collection system SEP, Respondent shall apply for all necessary permits to install and permits to operate. Each underlying permit obtained for purposes of the dust collector installation must include the removal efficiency (or emission limit for particulate matter if appropriate) and the pressure drop range established during performance testing as federally enforceable permit terms and conditions.

In the Matter of: Bluff City Minerals, Alton, Illinois  
Docket Number: CAA-05-2015-0029

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on April 15, 2015, this day in the following manner to the addressees:

Copy by Certified Mail  
Return-Receipt Requested:

Dale C. Hoette  
Vice President  
Bluff City Minerals  
4007 college Avenue  
Alton, Illinois 62002

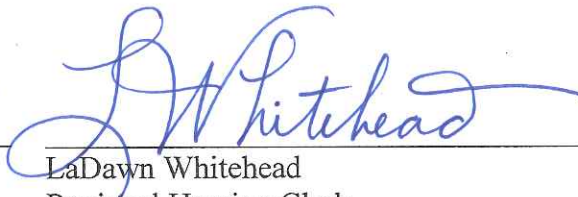
Copy by E-mail to  
Complainant:

Robert H. Smith  
smith.roberth@epa.gov

Copy by E-mail to  
Regional Judicial Officer:

Ann Coyle  
coyle.ann@epa.gov

Dated: April 15, 2015



LaDawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2640 7414