



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

SEP 03 2009

REPLY TO THE ATTENTION OF:
(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard Lehman, President
J&J Cores, LLC
22375 Oxford Township Road 105
Newcomerstown, Ohio 43832

Dear Mr. Lehman:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) that resolves case docket number CAA-05-2009-0031 with J&J Cores, LLC. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 03 2009.

Pursuant to paragraphs 23 through 26 of the CAFO, J&J Cores, LLC must pay the \$1,000 civil penalty within 30 days of the date the CAFO is filed. Your check must display the case docket number, CAA-05-2009-0031, and the billing document number, 2750903A033.

Please direct any questions regarding this case to Susan Tennenbaum, Associate Regional Counsel, (312) 886-0273.

Sincerely,

A handwritten signature in black ink that reads "Charles Hall for WLM".

William L. MacDowell

Chief

Air Enforcement and Compliance Assurance (MN/OH)

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)
)
J & J Cores, LLC)
Newcomerstown, Ohio,)
Respondent.)
_____)

Docket No. CAA-05-2009-0031
Proceeding to Assess a Civil Penalty
Under Section 113(d) of the Clean Air
Act, 42 U.S.C. § 7413(d)

RECEIVED

SEP 03 2009

**REGIONAL HEARING CLERK
USEPA
REGION 5**

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 (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, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. Respondent is J & J Cores, LLC, an Ohio corporation doing business in Newcomerstown, Ohio.
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 entry of this CAFO and the assessment of the specified civil

penalty, and agrees to comply with the terms of the 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 the 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. Under Section 112 of the Act, the Administrator of U.S. EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Aluminum Processing at 40 C.F.R. §§ 63.1500 through 63.1519.

10. The NESHAP for Secondary Aluminum Processing applies to sweat furnaces. 40 C.F.R. § 63.1500(b)(5).

11. Pursuant to 40 C.F.R. § 63.1501, the owner or operator of an existing affected source must comply with the requirements of Subpart RRR by March 24, 2003; and the owner or operator of a new affected source that commences construction or reconstruction after February 11, 1999, must comply with the requirements by March 24, 2000, or upon startup, whichever is later.

12. The NESHAP, at 40 C.F.R. § 63.1506(h)(2), requires the owner or operator of a sweat furnace with emissions controlled by an afterburner to operate each afterburner in accordance with the Operation, Maintenance, and Monitoring (OM&M) plan.

13. The NESHAP, at 40 C.F.R. § 63.1510(g)(1), requires the owner or operator of an affected source to install, calibrate, maintain, and operate a device to continuously monitor and record the operating temperature of the afterburner consistent with the requirements for

continuous monitoring system in Subpart A of Part 63.

14. The NESHAP, at 40 C.F.R. § 60.13(e), provides that, with the exception of system breakdowns, repairs, calibration checks, and zero and span adjustments, all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements.

15. The Administrator of U.S. EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

16. Respondent is a “person” as defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).

17. Respondent owns and operates a “secondary aluminum production facility,” as defined at 40 C.F.R. § 63.1503.

18. Respondent owns and operates a sweat furnace, as defined at 40 C.F.R. § 63.1503, which is used to reclaim aluminum from automotive, household, and manufacturing breakage scrap, at 2237 Oxford Township Road 105, Newcomerstown, Ohio.

19. Respondent’s sweat furnace, installed in 2001, is an affected source as defined at 40 C.F.R. § 63.1500(b)(5) and is subject to the requirements of 40 C.F.R. Part 63, Subpart RRR.

20. Respondent’s sweat furnace emissions are controlled by an afterburner.

21. Respondent’s OM&M plan requires it to, among other things, maintain and operate a device to continuously monitor and record the operating temperature of the afterburner.

22. From April 14, 2008 to June 27, 2008, Respondent failed to continuously monitor and record afterburner temperatures of the sweat furnace, as required by 40 C.F.R.

§ 63.1510(g)(1), 40 C.F.R. § 60.13(e), its OM&M plan, 40 C.F.R. § 63.1506(h)(2), and Section 112 of the Act, 42 U.S.C. § 7412.

Civil Penalty

23. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, Respondent's ability to pay a penalty and Respondent's prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$1,000.

24. Within 30 days after the effective date of this CAFO, Respondent must pay a \$1,000 civil penalty by sending a cashier's or certified check payable to the "Treasurer, United States of America," to:

(for checks sent by regular U.S. Postal Service mail)

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

(for checks sent by express mail)

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

The check must note the case name, In the Matter of J&J Cores, LLC, the docket number of this CAFO and the billing document number.

25. A transmittal letter stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

Susan Tennenbaum (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

26. This civil penalty is not deductible for federal tax purposes.
27. If Respondent does not pay timely the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.
28. Pursuant to 31 C.F.R. § 901.9, 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. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). 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.

General Provisions

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

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

31. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 28, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

32. Respondent certifies that it is complying fully with the NESHAP for Secondary Aluminum Processing at 40 C.F.R. Part 63, Subpart RRR.

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

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

35. 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.

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

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

J & J Cores, Respondent

August 18, 2009
Date

Richard Lehman
Richard Lehman, President
J & J Cores, LLC

United States Environmental Protection Agency, Complainant

9/2/09
Date

Cheryl Newton
Cheryl Newton, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

U.S. ENVIRONMENTAL
PROTECTION AGENCY

AUG 20 2009

OFFICE OF REGIONAL
COUNSEL

CONSENT AGREEMENT AND FINAL ORDER

In the Matter of:

J & J Cores, LLC

Docket No. CAA-05-2009-0031

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.

9/2/09
Date

Walter W. Karalich
for
Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5

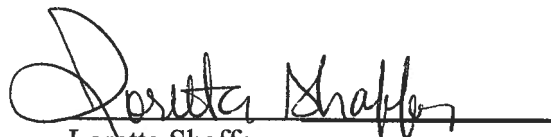
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CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent A Consent Agreement and Final Order (CAFO)
docket number CAA-05-2009-0031, by Certified Mail, Return Receipt Requested, to:

Richard Lehman
J&J Cores, LLC
22375 Oxford Township Road 105
Newcomerstown, Ohio 43832

on the 3 day of Sept, 2009


Loretta Shaffer
AECAS, (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0192 1604

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