

II. General Provisions

- 1) Section 113(a) and (d) of the Act, 42 U.S.C. § 7413(a) and (d), authorizes the Administrator of EPA to issue an administrative order assessing a civil administrative penalty 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, rule, plan, order, waiver, or permit promulgated, issued, or approved under Subchapters I, IV, V and VI [also referred to as Titles I, IV, V and VI] of the Act. The authority to issue the accompanying Final Order has been duly delegated to the Regional Judicial Officer, EPA Region III.
- 2) For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order and agrees not to contest EPA's jurisdiction with respect to the issuance, execution and enforcement of this Consent Agreement and the accompanying Final Order.
- 3) Except as provided in paragraph 2 above, Respondent neither admits nor denies the specific findings of fact and the conclusions of law set forth in this Consent Agreement and the accompanying Final Order.
- 4) Respondent consents to the issuance of this Consent Agreement and the accompanying Final Order, agrees to comply with the terms and conditions set forth therein, and consents to the payment of a civil penalty as set forth in this CAFO.
- 5) Respondent agrees to pay its own costs and attorney fees.
- 6) Respondent agrees that this Consent Agreement and the accompanying Final Order shall apply to, and be binding upon, Respondent, its officers, directors, servants, employees, agents, successors and assigns.

III. Findings Of Fact And Conclusions Of Law

- 7) In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), EPA alleges the following findings of fact and conclusions of law:
- 8) Respondent is a limited partnership doing business in the Commonwealth of Pennsylvania, at 141 Interpower Drive Colver, Pennsylvania 15927.
- 9) Respondent owns and operates the Facility.
- 10) Respondent is a "person" as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the Act, 42 U.S.C. § 7413(d).

11) On February 15, 2001, the Commonwealth of Pennsylvania, Department of Environmental Protection (“PADEP”) issued Title V Operating Permit No. 11-00378 (the “Permit”) to the Respondent in connection with the Facility, under the applicable State Implementation Plan (“PA SIP”).

12) Section D.I. #007 of the Permit provides:

“In accordance with special condition of operating permit #11-306-006: Emissions of particulate matter from the CFB boiler shall not exceed 21.3 lbs/hr and 89 tons/yr in any consecutive 12 month rolling average.”

13) On May 2, 2012, Eastern Research Group, acting as a representative of EPA, conducted a compliance inspection and on-site records review at the Facility.

14) On the basis of information obtained at the Facility during the May 2, 2012 compliance inspection, EPA determined that Respondent conducted stack tests to determine the emission rate of filterable PM during the years of May 2009, April 2010 and August 2010. The results of those stack tests are indicated below:

Stack Test Date	PM Filterable Emission Rate (lb/hr)	PM Filterable Permit Limit
May 2009	29.96	21.3 lb/hr
April 2010	21.62	
August 2010	9.3	

15) Based upon the stack test results referred to in Paragraph 14 above, EPA determined that Respondent violated permit condition D.I.#007 (page 29) by exceeding the PM emission limit of 21.3 lb/hr in at least May 2009 and April 2010.

16) During the inspection of May 2, 2012, information pertaining to the Facility’s hours of operation, fuel use (tons of coal), and heat input (lb/MMBtu) were obtained for the circulating fluidized bed boiler.

17) Based upon the data referenced in Paragraph 16 above (provided by Respondent during the May 2, 2012 compliance inspection), EPA calculated the monthly PM emissions from the circulating fluidized bed boiler for the period from January 2009 through December 2010.

18) Based upon the monthly calculations of PM emissions at the Facility, EPA has determined that Respondent violated the permitted rolling 12 month PM emission limit of 89 ton/yr from December 2009 through September 2010.

IV. Settlement Recitation, Settlement Conditions, and Civil Penalty

- 19) Respondent herein certifies to Complainant EPA that upon investigation, to the best of its knowledge and belief, all violations alleged in the Consent Agreement will be remedied within thirty (30) days of Respondent's initial receipt of this Consent Agreement.
- 20) Complainant and Respondent enter into this Consent Agreement and the accompanying Final Order in order to settle fully and resolve all alleged violations set forth in Section III of this Consent Agreement.
- 21) In full and final settlement of the alleged violations enumerated above in Section III of this Consent Agreement, Respondent consents to the assessment and agrees to pay a civil penalty in the amount of Fifty Three Thousand One Hundred and Eleven Dollars (\$53,111) within the time and manner specified herein.
- 22) The settlement amount of Fifty Three Thousand One Hundred and Eleven Dollars (\$53,111) is based upon Complainant's consideration of and application of the statutory penalty factors set forth in Section 113(e), of the Act, 42 U.S.C. § 7413(e), (which include the size of the business, economic impact of the penalty, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, the economic benefit of noncompliance, the payment of penalties previously assessed for same violation, the seriousness of violation and such other matters as justice may require), and EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991), as indexed for inflation in keeping with 40 C.F.R. Part 19 (Adjustment to Civil Monetary Penalties for Inflation). Complainant has determined that Respondent's payment of this civil penalty shall constitute full and final satisfaction of the alleged violations set forth in Section III of this Consent Agreement.
- 23) Respondent shall pay the civil penalty of Fifty Three Thousand One Hundred and Eleven Dollars (\$53,111) no later than thirty (30) days after the effective date of this Consent Agreement and accompanying Final Order in order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this Consent Agreement and accompanying Final Order.
- 24) Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. §13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this Consent Agreement and Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

- 25) Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of this executed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
- 26) The cost of EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. §13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
- 27) A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent for more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
- 28) Thus, in accordance with the above provisions, to avoid the assessment of interest, late payment penalties, and handling charges on the penalty set forth herein, Respondent must pay the full amount of the civil penalty, in the manner directed, within thirty (30) days of the effective date of this Consent Agreement and accompanying Final Order.
- 29) Payment of the penalty in Paragraph 21 shall be made by cashier's check, certified check, or electronic wire transfer, Automated Clearing House ("ACH"), or an on line, internet payment as specified below. All payments are payable to Treasurer, United States of America and shall reference the above case caption and docket number (CAA-03-2013-0139).

All checks shall be made payable to Treasurer, United States of America and shall be mailed to the attention of:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P. O. Box 979077
St. Louis, MO 63197-9000
Contact: Heather Russell at (513) 487-2044.

Overnight deliveries shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. Environmental Protection Agency
Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: (314) 418-1028.

All electronic wire transfer payments shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental
Protection Agency"

Payments through ACH (also known as REX or remittance express) shall be directed to:

U.S Treasury REX/Cashlink ACH Receiver
ABA = 051036706
Account 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - checking
33 Liberty Street
New York, N.Y. 10045

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: John Schmid, at 202-874-7026, or REX at 1-866-234-5681

An on-line, internet payment option, is also available through the United States Department of Treasury. This payment option can be accessed from www.pay.gov. Enter sfo 1.1 in the search field. Open form and complete required fields.

**Additional payment guidance is available at:
http://www.epa.gov/ocfo/finservices/make_a_payment.htm**

- 30) All payments made by check also shall reference the above case caption and docket number, CAA-03-2013-0139. At the same time that any payment is made, copies of any corresponding check or written notification confirming any electronic transfer through wire transfer, ACH, or internet payment shall be mailed to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, to Dennis M. Abraham, Esq., Senior Assistant Regional Counsel (3RC10), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and to Bruce Augustine (3AP20), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029.
- 31) Respondent agrees not to deduct for federal tax purposes the civil penalty specified in, and any civil penalty amount paid pursuant to, this Consent Agreement and accompanying Final Order.
- 32) Payment of the penalty specified in Paragraph 21 in the manner set forth in this Consent Agreement and payment of any applicable interest, handling costs and/or late payment charges as set forth above shall constitute full and final satisfaction of all civil claims for penalties for the specific violations alleged in Section III of this Consent Agreement. Compliance with this Consent Agreement and accompanying Final Order shall not be a defense to any action commenced at any time for any other violation of any federal laws and regulations administered by EPA.
- 33) Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in referral of this matter to the United States Attorney for enforcement of this Consent Agreement and the accompanying Final Order in the appropriate United States District Court. Additionally, Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in the assessment of additional interest, penalties and/or late payment penalty charges.

V. Reservation of Rights

- 34) This Consent Agreement and the accompanying Final Order resolve only the civil claims for the specific violations alleged in Section III of this Consent Agreement. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Nor shall anything in this Consent Agreement and Final Order be construed to limit the United States' authority to pursue criminal sanctions. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, Complainant reserves any rights and remedies available to it under the Act, the regulations

promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this Consent Agreement and accompanying Final Order following its filing with the Regional Hearing Clerk.

VI. Effective Date

- 35) The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Consent Agreement and Final Order is filed with the Regional Hearing Clerk of EPA Region III.

VII. Waiver of Hearing

- 36) For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing pursuant to Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), with respect to any issue of law or fact set forth in this CAFO. Respondent also waives its right to appeal the accompanying Final Order.

VIII. Entire Agreement

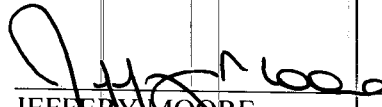
- 37) This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Agreement and the accompanying Final Order. Nothing in this Consent Agreement or the accompanying Final Order shall be construed to affect or limit in any way the obligation of Respondent to comply with all federal, state and local laws and regulations governing any activity required by this Consent Agreement and the accompanying Final Order.

IX. Execution

- 38) The person signing this Consent Agreement on behalf of Respondent acknowledges and certifies by his/her signature that he/she is fully authorized to enter into this Consent Agreement and to legally bind Respondent, to the terms and conditions of this Consent Agreement and the accompanying Final Order.

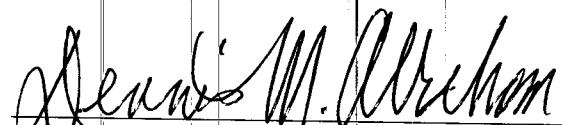
For the Respondent:
Inter-Power/Ahlcon Partners, L.P.

7/11/13
Date


JEFFERY MOORE
General Manager

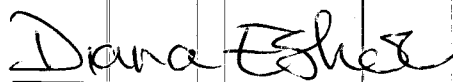
For the Complainant:

7/16/13
Date


Dennis M. Abraham
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III

Accordingly, the Air Protection Division, United States Environmental Protection Agency, Region III, recommends that the Regional Administrator of EPA Region III or his designee, the Regional Judicial Officer, ratify this Consent Agreement and issue the accompanying Final Order. The amount of the recommended civil penalty assessment is Fifty Three Thousand One Hundred and Eleven Dollars (\$53,111).

7/24/2013
Date


Diana Esher, Director
Air Protection Division
U.S. Environmental Protection Agency, Region III

