



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

SEP - 7 2007

Ref: 8ENF-W-NP

CERTIFIED MAIL 7003 2260 0001 7778 3157
RETURN RECEIPT REQUESTED

CT Corporation System, Registered Agent
17 N. Front St.
Cascade, MT 59421

Re: Order for Compliance under sections
308(a) and 309(a)(3) of the Clean
Water Act

Dear Registered Agent:

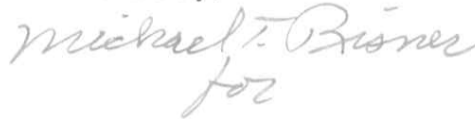
Enclosed is a United States Environmental Protection Agency Region 8 (EPA) Order for Compliance (Order) issued to International Malting Company for violations of federal pretreatment standards and requirements. The Order specifies the nature of the violations under the Clean Water Act (Act), as amended, 33 U.S.C. § 1251 *et seq.* The authority for issuing this Order is provided to EPA under sections 308(a) and 309(a)(3) of the Act, 33 U.S.C. §§ 1318(a) and 1319(a)(3).

The Order describes the actions necessary in order for International Malting Company to achieve compliance with the Act. Furthermore, the Order requires International Malting Company to notify EPA in writing within ten (10) days whether it intends to comply with the Order.

The Act requires the Administrator of EPA to take all appropriate enforcement actions necessary to secure prompt compliance with the Act and any orders issued thereunder. Section 309 of the Act provides a variety of possible enforcement actions, including the filing of a civil or criminal action (33 U.S.C. §§ 1319(b), (c), (d), and (g)). Please be advised that the issuance of this Order does not preclude the initiation of administrative penalty proceedings or civil or criminal action in U.S. District Court under sections 309(g), (b), (d) and (c) of the Act for the violations cited in the Order.

Please review this letter and the enclosed Order carefully. Failure to comply with the requirements of the Order shall constitute a violation of the Order. If you have any questions regarding this letter, the enclosed Order, or any other matters pertinent to International Malting Company's compliance with the Act, the most knowledgeable people on my staff regarding these matters for legal and technical issues, respectively, are Peggy Livingston, Enforcement Attorney, at (303) 312-6858, and Amy Clark, NPDES Enforcement Unit, at (303) 312-7014.

Sincerely,

Handwritten signature of Michael T. Bisnes in cursive script.

Eddie A. Sierra
Deputy Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: Jenny Chambers, MDEQ
Kari Smith, MDEQ
Jim Rearden, City of Great Falls
Gary McLoughlin, International Malting Company

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2007 SEP -7 PM 12:39

IN THE MATTER OF:) **ORDER FOR COMPLIANCE**
)
International Malting Company,) Issued Pursuant to Sections
Respondent.) 309(a)(3) and 308(a) of the
) Clean Water Act
)
)
)
Docket No. **CWA-08-2007-0018**

STATUTORY AUTHORITY

This Order for Compliance (Order) is issued pursuant to section 309(a)(3) of the Clean Water Act (Act), 33 U.S.C. § 1319(a)(3), which authorizes the Administrator of the United States Environmental Protection Agency (EPA) to issue an order requiring compliance by a person found to be in violation of sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or in violation of any permit condition or limitation implementing any such sections of the Act. This Order is also issued pursuant to section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a), which authorizes the Administrator of the United States Environmental Protection Agency (EPA) to require submission of information. These authorities have been delegated to the undersigned official.

FINDINGS OF FACT

1. Respondent International Malting Company (Respondent) is a Delaware corporation authorized to do business in Montana.
2. The Respondent is a "person" within the meaning of section 502(5) of the Act, 33 U.S.C. § 1362(5).
3. The Respondent owns and/or operates a barley malting facility located at 415 U.S.

Highway 87, Great Falls, Montana, for the purpose of malt production (Standard Industrial Classification 2083).

4. Since at least November 2005, Respondent has consistently discharged process wastewater within the meaning of 40 C.F.R. § 401.11(q) to a wastewater treatment facility owned and operated by the City of Great Falls. The process wastewater contains pollutants within the meaning of section 502(6) of the Act, 33 U.S.C. § 1362(6) and process wastewater pollutants within the meaning of 40 C.F.R. § 401.11(r).B
5. The wastewater treatment facility owned and/or operated by the City of Great Falls is a Publicly-Owned Treatment Works (POTW) as defined in 40 C.F.R. § 403.3(o).
6. The POTW includes not only the treatment plant itself, but also sewers, pipes, and other conveyances that convey wastewater to the treatment plant, according to 40 C.F.R. § 403.3(o).
7. The pollutants that the Respondent has introduced into the POTW constitute an "Indirect Discharge" as defined by 40 C.F.R. § 403.3(g).
8. As a non-domestic source of pollutants discharged to a POTW, the Respondent is subject to EPA's General Pretreatment Regulations for Existing and New Sources of Pollution, 40 C.F.R. part 403 (Pretreatment Regulations). EPA promulgated the Pretreatment Regulations to implement section 307(b) of the Act, 33 U.S.C. § 1317(b).
9. The Respondent is an "Industrial User" within the meaning of 40 C.F.R. § 403.3(h), and a "Significant Industrial User" as defined at 40 C.F.R. § 403.3(t).

10. 40 C.F.R. § 403.5(b)(7) prohibits the discharge of any pollutant which will result in the presence of toxic gases in the POTW in a quantity that may cause acute worker health and safety problems.
11. The National Institute for Occupational Safety and Health's (NIOSH's) recommended exposure level ceiling for hydrogen sulfide is 10 parts per million (ppm). NIOSH has established the immediate danger to life or health (IDLH) concentration as 100 ppm for hydrogen sulfide.
12. The symptoms of short-term exposure to hydrogen sulfide gas include respiratory irritation, difficulty breathing, headaches, and nausea.
13. Since at least November 2005, the Respondent has been consistently discharging process wastewater to the City of Great Falls sewer line. Since December 12, 2005, hydrogen sulfide has been detected in the sewer line through which Respondent discharges process wastewater to the POTW's treatment plant.
14. Since December 2005, hydrogen sulfide concentrations in the sewer line downstream from the Respondent have exceeded 10 ppm on a consistent basis. The highest levels of hydrogen sulfide have been found in manholes immediately down gradient of Respondent's discharge.
15. On December 12, 2005, the concentration of hydrogen sulfide in the sewer line exceeded 10 ppm at the manhole immediately downstream of the Respondent's discharge. Further testing on subsequent days continued to find elevated levels of hydrogen sulfide in the sewer line immediately downstream of the Respondent's discharge.

16. The hydrogen sulfide in the sewer system has resulted in human health impacts. At least one City employee has reported headaches lasting as much as 18 hours after sampling for hydrogen sulfide along this sewer line.
17. Respondent's discharge has resulted in levels of hydrogen sulfide in the sewer system, a part of the POTW that may cause acute worker health and safety problems.

VIOLATIONS

18. Respondent's discharge has resulted in levels of hydrogen sulfide in the sewer system of greater than 100 ppm on at least 400 occasions and levels greater than 10 ppm on even more occasions between November 2005 and August 2007.
19. Each day that the Respondent's discharge resulted in hydrogen sulfide at levels that may cause acute worker health and safety problems constitutes a separate violation of 40 C.F.R. § 403.5(b)(7).

ORDER

Based upon the foregoing Violations, and pursuant to the authority delegated to the individual below, it is hereby ORDERED THAT:

20. Within ten (10) days of receipt of this Order, Respondent shall give written notice to EPA its intent to comply with the requirements of this Order.
21. Upon receipt of this Order, Respondent shall immediately comply with all pretreatment regulations found in 40 C.F.R. § 403.
22. Beginning immediately, Respondent shall continuously monitor its effluent discharge for flow and pH, and continuously monitor the flow and conductivity of the pretreatment chemical(s) added to the Respondent's effluent. Results from each day of

monitoring shall be submitted to the City of Great Falls the following day via email. Results for the daily monitoring from the previous Monday through Sunday shall be provided to EPA each Monday via email. Sampling will continue until written notification is provided by EPA that the sampling frequency is to be changed or that sampling can be discontinued.

23. Beginning immediately, Respondent shall begin monitoring its effluent daily for biochemical oxygen demand (BOD₅), total suspended solids, and dissolved sulfide, and hydrogen sulfide gas at the sampling point prior to discharge to the sewer system. Sampling will continue until written notification is provided by EPA that the sampling frequency may be changed or that sampling can be discontinued. Data from the weekly monitoring shall be reported to the City of Great Falls and EPA once the analytical results are received. Data from Monday through Sunday shall be compiled and the results shall be submitted every Monday via email to the City of Great Falls and EPA.
24. Respondent shall mail a copy of the monthly monitoring results from paragraphs 22 and 23 to EPA by the 15th day of the following month along with the certification statement in paragraph 37.
25. All samples required by this Order shall be representative of the discharge. Sampling and analysis shall be done in accordance with 40 C.F.R. part 136.
26. Within fourteen (14) days of receipt of this Order, Respondent will provide to EPA and the City of Great Falls a report describing the cause of the hydrogen sulfide in the sewer system. The report will include all supporting documentation.

27. Within thirty (30) days of receipt of this Order, Respondent shall provide to EPA all information regarding the Respondent's pretreatment system, including but not limited to a description of all pretreatment methods used, design plans, treatment costs, and treatment efficiencies.
28. If at any time after fourteen days of receipt of this Order the Respondent is notified by the City of Great Falls that the concentration of hydrogen sulfide gas in the sewer system exceeds the NIOSH recommended exposure level ceiling of 10 ppm, Respondent will immediately take all actions to bring the hydrogen sulfide levels in the sewer system to less than 10 ppm and shall within 24 hours email EPA and the City of Great Falls with the details on the actions taken and resulting effect on hydrogen sulfide levels.
29. Within thirty (30) days of receipt of this Order, Respondent will provide to EPA and the City of Great Falls a plan describing the actions proposed and/or taken to prevent further violations of 40 C.F.R. part 403. At a minimum, this plan shall include a description of what actions Respondent will take, short-term and long-term if different, to ensure that hydrogen sulfide in the sewer system remains below 10 ppm. A proposed time line for implementing these actions will be included in the report.
30. EPA will review the submission described in paragraph 29 and may: (a) approve the submission; (b) approve the submission with modifications; or (c) disapprove the submission and direct Respondent to re-submit the document after incorporating EPA's comments.
31. Upon receipt of a notice of disapproval or a request for a modification as described in paragraph 30 above, Respondent shall, within fifteen (15) days, or such longer time as specified by EPA in its notice of disapproval or request for modification, correct the deficiencies and resubmit the plan(s). Respondent shall have the opportunity to object

in writing to the notification of disapproval or request for modification given pursuant to paragraph 30 within fifteen (15) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision to Respondent, which shall be final and binding upon Respondent.

32. Upon EPA approval, or approval with modification of the plan, the plan and its implementation schedule will be incorporated into this Order as enforceable terms of the Order.
33. Within fourteen (14) days of completion of the plan identified above, Respondent will submit to EPA an itemized list of all costs incurred to implement the plan.
34. In the case of non-compliance with any schedule in the plan described in paragraph 29 of this Order, Respondent shall submit to EPA a written notice of non-compliance within fourteen (14) days. The notice shall include the cause for non-compliance and specify remedial actions being taken to comply.
35. All notices and reports required by this Order to be given to EPA shall be given to:

Amy Clark (8ENF-W-NP)
U.S. EPA Region 8
1595 Wynkoop St.
Denver, Colorado 80202-1129
clark.amy@epa.gov
Phone: 303-312-7014
Fax: 303-312-7202

36. All notices and reports required by this Order to be given to the City of Great Falls shall be provided to:

Mike Jacobsen
City of Great Falls
P.O. Box 5021

Great Falls, MT 59403
mjacobson@ci.great-falls.mt.us
Phone: 406-727-1325
Fax: 406-727-1327

37. All reports and information required by this Order shall include the following certification statement, signed and dated by an individual meeting the definition in 40 C.F.R. § 122.22(a)(1) of a responsible corporate officer for the Respondent.

I hereby certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

38. Any failure to comply with the requirements of this Order shall constitute a violation of said Order and may subject Respondent to penalties as provided under section 309 of the Act, 33 U.S.C. § 1319.
39. This Order does not constitute a waiver or election by EPA to forego any civil or criminal action to seek penalties, fines or other relief as it may deem appropriate under the Act. Section 309(d) of the Act, 33 U.S.C. § 1319(d), authorizes the imposition of civil penalties of up to \$32,500 per day for each violation of the Act, while section 309(c) of the Act, 33 U.S.C. § 1319(c), authorizes fines and imprisonment for willful or negligent violations of the Act.
40. Nothing in this Order shall be construed to preclude further action under section 309 of the Act for those violations cited herein or relieve Respondent from responsibilities,

liabilities, or penalties established pursuant to any applicable Federal and/or State law or regulation.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8
Complainant.

Date: 9/6/07

for Michael T. Bisner
Eddie A. Sierra
Deputy Assistant Regional Administrator
Office of Enforcement, Compliance,
and Environmental Justice

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the ORDER FOR COMPLIANCE was hand-carried to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, and that one true copy of the same were sent as follows:

Via certified mail to:

CT Corporation System, Registered Agent
17 N. Front St.
Cascade, MT 59421
(Registered agent for International Malting Company)

Date

Signature of Server