



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

DEC 10 2014

REPLY TO THE ATTENTION OF:

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

Larry Lindahl, Vice President  
Lindahl Brothers, Inc.  
3301 S California Street  
Chicago, Illinois, 60608

Dear Mr. Lindahl:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) in the Matter of:  
Lindahl Brothers, Inc. with case docket no. CAA-05-2015-0013. As indicated by the filing  
stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on

DEC 10 2014.

Pursuant to paragraph 28 of the CAFO, Lindahl Brothers Inc. must pay the civil penalty within  
30 days of date the CAFO is filed. Your electronic funds transfer must display the case name  
Lindahl Brothers Inc. and the docket number CAA-05-2015-0013.

Please direct any questions regarding this case to Kathleen Schnieders, Associate Regional  
Counsel, 312-353-8912.

Sincerely,

A handwritten signature in cursive script that reads "Brian Dickens".

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

Enclosure

cc: Regional Judicial Officer/C-14J  
Regional Hearing Clerk/E-19J  
Kathleen Schnieders/C-14J  
Eric Jones/IL EPA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5



<b>In the Matter of:</b>	)	<b>Docket No.</b>
	)	CAA-05-2015-0013
<b>Lindahl Brothers, Inc.</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Chicago, Illinois</b>	)	<b>Under Section 113(d) of the Clean Air Act,</b>
	)	<b>42 U.S.C. § 7413(d)</b>
<b>Respondent.</b>	)	
_____	)	

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 or the CAA), 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 Lindahl Brothers, Inc. (Lindahl), 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**

#### **Illinois State Implementation Plan**

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 Clean Air Amendments 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. Upon the Administrator's approval, SIP requirements are federally enforceable under Section 113 of the Act, 42 U.S.C. §§ 7413(a), (b); 40 C.F.R. § 52.23.

14. The Administrator approved Title 35 of the Illinois Administrative Code (IAC) § 212.301, governing fugitive particulate matter emissions, as part of the Illinois SIP on February 21, 1980. 45 Fed. Reg. 11493.

15. 35 IAC § 212.301 provides that no person shall cause or allow the emission 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.

16. The Administrator approved Illinois Pollution Control Board (IPCB) Rule 102, which includes 35 IAC § 201.141, as part of the Illinois SIP on May 31, 1972. 37 Fed. 7: 10842.

17. 35 IAC § 201.141 states that no person shall "cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois. . . ."

18. "Air Pollution" is defined as "the presence in the atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property." 35 IAC § 201.102.

19. Section 113(a) of the CAA, 42 U.S.C. § 7413(a)(1), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of an applicable implementation plan, regulation, or permit.

20. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation, up to \$295,000, for SIP violations that occurred after 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.

#### **Factual Allegations and Alleged Violations**

21. Lindahl owns and operates a concrete recycling operation at 3301 S California Avenue, Chicago, Illinois (California Avenue Facility).

22. Emissions from Lindahl's concrete recycling operation are subject to the fugitive particulate emissions regulations in the Illinois SIP at 35 IAC § 212.301 and 35 IAC § 201.141.

23. On May 5, 2014, EPA representatives observed fugitive particulate emissions originating from the California Avenue Facility traveling beyond its property line and crossing the I-55 highway.

24. On June 18, 2014, Region 5 issued a Notice of Violation (NOV) alleging that Lindahl violated provisions of the Illinois SIP.

25. On July 23, 2014, representatives of Lindahl and EPA met to discuss the alleged violations at the California Avenue Facility.

26. On July 28, 2014, Lindahl installed an additional water nozzle at the transfer point that caused the fugitive emission to cross the property boundary of the California Avenue Facility.

#### **Civil Penalty**

27. 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 any other factors, such as cooperation and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$ 6,000.

28. Within 30 days after the effective date of this CAFO, Respondent must pay a \$ 6,000 civil penalty by an on-line payment. To pay on-line, go to [www.pay.gov](http://www.pay.gov). Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

29. 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

Kathleen Schnieders (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

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

31. If Respondent does not pay timely the civil penalty, 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.

32. 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).

### General Provisions

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

34. 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.

35. 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 33, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

36. Respondent certifies that it is in compliance the Illinois SIP.

37. 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).

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

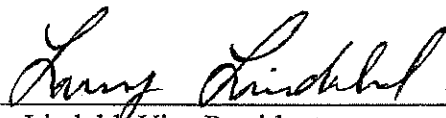
39. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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

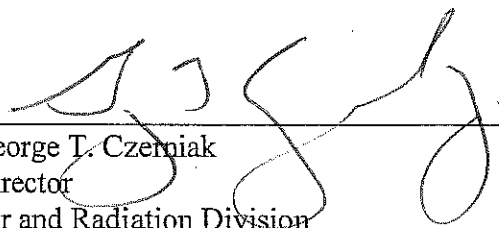
**Lindahl Brothers, Inc., Respondent**

10/29/14  
Date

  
Larry Lindahl, Vice President  
Lindahl Brothers, Inc.

**United States Environmental Protection Agency, Complainant**

11/25/14  
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: Lindahl Brothers, Inc.**  
**Docket No. CAA-05-2015-0013**

**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.

12-5-2014  
Date

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

**Consent Agreement and Final Order**  
**In the Matter of: Lindahl Brothers, Inc.**  
**Docket No. CAA-05-2015-0013**

**Certificate of Service**

I certify that I filed two originals of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2015-0013 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed one original to the Respondent by first-class, postage prepaid, certified mail, return receipt requested, addressed as follows:

Larry Lindahl  
Lindahl Brothers, Inc.  
3301 S California Street  
Chicago, Illinois 60608


I certify that I sent a copy of the CAFO by intra-office mail to:

Regional Judicial Officer (C-14J)  
U.S. Environmental Protection Agency  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

I also certify that I mailed a copy of the CAFO by first-class mail to:

Eric Jones  
Manager, Compliance Unit  
Bureau of Air  
Illinois Environmental Protection Agency  
1000 Converse Avenue  
Floor 4  
Springfield, Illinois 62794

On the 10 day of Dec 2014.

  
\_\_\_\_\_  
**Loretta Shaffer**  
**Program Technician**  
**AECAB, PAS**

CERTIFIED MAIL RECEIPT NUMBER(S):

70091680 0000 7670 0894