



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

JUN 21 2007

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael H. Simpson, Esq.
Reinhard Boener Van Deuren s.c.
1000 N. Water Street
Milwaukee, Wisconsin 53202

Dear Mr. Simpson:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves Lesaffre Yeast Corporation (Lesaffre), CAA Docket No. CAA-05-2007-0002. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on JUN 21 2007.

Pursuant to paragraph 10 of the CAFO, Lesaffre must pay the civil penalty within 30 days of JUN 21 2007. Your check must display the case docket number, CAA-05-2007-0002, and the billing document number, 2750703A015.

Please direct any questions regarding this case to Catherine Garypie, Associate Regional Counsel at (312) 886-5825.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Bonnie Bush, for".

Bonnie Bush, Acting Chief
Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure

cc: Geoffrey P. O'Conner
Lesaffre Yeast Corporation

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

Lesaffre Yeast Corporation
Milwaukee, Wisconsin

Respondent.

) **Docket No. CAA-05-2007-0002**
)
) **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

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On December 15, 2006, U.S. EPA filed the complaint in this action against Respondent Lesaffre Yeast Corporation ("Lesaffre" or "Respondent"). The complaint alleges that Lesaffre violated Nonattainment New Source Review Requirements contained in the Act and in the Wisconsin State Implementation Plan ("SIP") (Count I) as well as emission limitations contained in Lesaffre's Title V permit and the Wisconsin SIP (Count II) at its facility in Milwaukee, Wisconsin.

3. Lesaffre filed an answer and requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

Stipulations

4. Lesaffre admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint.

5. Lesaffre waives any right to contest the allegations in the complaint and its right to appeal this consent agreement and final order (CAFO).

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6. Operations at the Lesaffre facility located at 2702 W. Greves Street, Milwaukee, Wisconsin (“Facility”), ceased on December 22, 2005. The Facility was transferred to 2612 Greves, LLC and 2702 Greves, LLC on July 27, 2006.

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

8. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

9. U.S. EPA agrees to mitigate the proposed penalty of \$488,080 to \$202,500.

10. Lesaffre must pay the \$202,500 civil penalty by cashier’s or certified check payable to the “Treasurer, United States of America,” or wire transfer within 30 days after the effective date of this CAFO.

11. Lesaffre must send the check to:

U.S. Environmental Protection Agency
P.O. Box 371531
Pittsburgh, PA 15251-7531

If sending by non-U.S. Postal Service (which won’t deliver mail to P.O. boxes), Respondent must send the check to:

Mellon Client Service Center
Attn: Shift Supervisor
Lockbox 371531
500 Ross Street
Pittsburgh, PA 15262-0001

For Wire Transfer (also called Electronic Fund Transfer, or EFT):

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Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message is: "D68010727
Environmental Protection Agency"

12. A transmittal letter, stating the Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-13J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 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, Illinois 60604

Attn: Lesaffre Yeast Corporation Case Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

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

14. If Lesaffre 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.

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15. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717. Lesaffre will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Lesaffre will 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.

Emission Credits/Reactivation

16.a. Notwithstanding any language in any air pollution control permits issued to the Respondent or its predecessor(s) for the facility located at 2702 W. Greves Street, Milwaukee, Wisconsin, Respondent agrees that any emission reduction resulting from the following activities which are the subject of the Complaint shall not be considered as a creditable contemporaneous emission decrease for purposes of obtaining a netting credit under the Clean Air Act's Nonattainment NSR and PSD programs:

- removal of old fermenter #6
- installation of new fermenter #6 (P24)
- installation of new dryer
- installation and modification of fermenter #11 (P29)
- expansion of yeast dryers #2 and #3 (P07, P09, P11)
- installation of new box dryer (P09)
- installation of new yeast dryer #1 (P11)
- installation of storage tanks (T30, T31, T32, T33, T34, T35)

b. Notwithstanding any language in any air pollution control permits issued to the Respondent or its predecessor(s) for the facility located at 2702 W. Greves Street, Milwaukee, Wisconsin, Respondent agrees that the following emission reductions resulting from activities which are the subject of the Complaint shall not be used or sold in any emission trading or marketing program of any kind:

- removal of old fermenter #6: +10.4tpy
- installation of new fermenter #6 (P24): +1.9tpy
- installation of new dryer: 0tpy
- installation and modification of fermenter #11 (P29): +20.1tpy
- expansion of yeast dryers #2 and #3 (P07, P09, P11): 0tpy
- installation of new box dryer (P09): 0tpy
- installation of new yeast dryer #1 (P11): +.05tpy
- installation of storage tanks (T30, T31, T32, T33, T34, T35): 0tpy
- TOTAL: +32.9tpy

Any other credits associated with the Facility are outside the scope of these use/sale limitations and are subject to all applicable Federal or state laws and regulations.

17. Notwithstanding any language in any air pollution control permits issued to the Respondent or its predecessor(s) for the facility located at 2702 W. Greves Street, Milwaukee, Wisconsin, Respondent agrees that the shutdown of the Facility on December 22, 2005, was a "permanent shutdown" as defined by the United States Environmental Protection Agency Reactivation Policy, and the Facility will be considered a new source if restarted by Respondent.

General Provisions

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

19. This 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.

20. This CAFO does not affect Lesaffre's responsibility to comply with the Act and other applicable Federal, State and local laws, and regulations. Except as provided in paragraph 18, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by Complainant.

21. 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 Lesaffre’s “full compliance history” under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

22. The terms of this CAFO bind Lesaffre, and its successors, and assigns.

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

24. Each party agrees to bear its own cost and attorneys’ fees in this action.

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

U.S. Environmental Protection Agency, Complainant

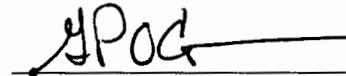
6/20/2007
Date



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

Lesaffre Yeast Corporation, Respondent

6/19/07
Date



Geoffrey P. O'Connor, CFO and Treasurer
Lesaffre Yeast Corporation

CONSENT AGREEMENT AND FINAL ORDER

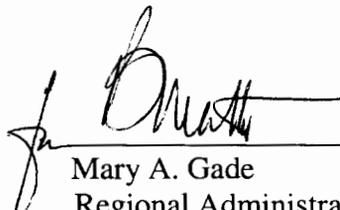
Lesaffre Yeast Corporation

Docket No. CAA-05-2007-0002

Final Order

It is ordered as agreed to by parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk. This final order disposes of this proceeding pursuant to 40 C.F.R. § 22.18.

6-20-07
Date



Mary A. Gade
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

RECEIVED
JUL 23 2007

In the Matter of: Lesaffre Yeast Corporation
Docket No. CAA-05-2007-0002

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order in this matter with the Regional Hearing Clerk (E-13J), United States Environmental Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that I mailed by Federal Express, the second original and one copy to Respondent, addressed as follows:

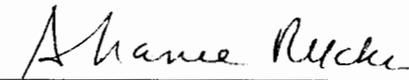
Original: Michael H. Simpson, Esq.
Reinhard Boener Van Deuren s.c.
1000 N. Water Street
Milwaukee, WI 53202
(414) 298-8124

Copy: Thomas P. McElligott, Esq.
Quarles & Brady
411 East Wisconsin Avenue
Milwaukee, WI 53202
(414) 277-5677

and that I mailed a correct copy Federal Express, addressed as follows:

Honorable William B. Moran
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Franklin Court, Suite 350
1099 14th St. NW
Washington, DC 20005
(202) 564-6255

On this 21st day of June, 2007.


Shanee Rucker
AECAS (MI/WI)

CERTIFIED MAIL NUMBER: 7001 0320 0006 01988805

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JUN 21 2007
CHICAGO, IL
FEDERAL EXPRESS
RECEIVED