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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

75 HAWTHORNE STREET
SAN FRANCISCO, CA 94105

REGIONAL OFFICE CLERK

In the Matter of:)	
)	Docket No. CAA-09-2011- 0001
Roseburg Forest Products Co.,)	
)	CONSENT AGREEMENT AND FINAL
Respondent.)	ORDER PURSUANT TO 40 C.F.R.
_____)	§§ 22.13 and 22.18

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region IX (“EPA”), and Roseburg Forest Products Company (“Respondent”) agree to settle this matter and consent to the entry of this Consent Agreement and Final Order (“CAFO”), which simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).

A. AUTHORITY AND PARTIES

1. This is a civil administrative penalty action instituted against Respondent pursuant to Section 113(d) of the Clean Air Act (“CAA” or the “Act”), as amended, 42 U.S.C. § 7413(d), for violation of Section 110 of the Act, 42 U.S.C. § 7410, Section 111 of the Act, 42 U.S.C. § 7411, and implementing federal regulations at 40 C.F.R. Part 60, Subparts A and Db.

2. Complainant is the Director of the Air Division, EPA Region IX, who has been duly delegated the authority to initiate this action and to sign a consent agreement settling this action.

3. Respondent is an Oregon corporation that owns and operates a veneer facility located at 98 Mill Street in Weed, California, within the jurisdiction of the Siskiyou County Air Pollution Control District (“District”).

B. APPLICABLE STATUTORY AND REGULATORY SECTIONS

4. Section 110(a) of the Act, 42 U.S.C. § 7410(a), requires that all states adopt state implementation plans (“SIPs”) that provide for the implementation, maintenance and enforcement of primary and secondary air quality standards.

5. In accordance with Section 110 of the Act, EPA has approved Rule 2.01 (“Permits Required”), as adopted by the District on January 24, 1989, into the District’s portion of the

California SIP. See 61 Fed. Reg. 56629 (Nov. 4, 1996). EPA also approved Rule 2.07 (“Conditional Approval”), as adopted by the District on November 25, 1986, into the District’s portion of the California SIP. See 54 Fed. Reg. 14648 (Apr. 12, 1989).

6. Rule 2.01 requires Authority to Construct (“ATC”) and operating permits for any article, machine, equipment or other contrivance, or multi-component system, the use of which may cause the issuance of air contaminants, or which may eliminate, reduce or control the issuance of air contaminants. Rule 2.07 prohibits the operation of equipment contrary to permit conditions.

7. Failure to comply with any approved regulatory provision of a SIP is a violation of the applicable implementation plan and is subject to enforcement under Section 113 of the Act. 40 C.F.R. § 52.23; 42 U.S.C. § 7413(a)(1).

8. EPA may issue an administrative penalty order at any time following 30 days after the date on which the Administrator of EPA (“Administrator”) issues a notification to a person that the Administrator finds that person has violated a requirement of a permit issued pursuant to a SIP. 42 U.S.C. § 7413(a)(1).

9. Section 111 of the Act, 42 U.S.C. § 7411, requires EPA to prescribe New Source Performance Standards (“NSPS”) for new and modified sources within certain source categories. Pursuant to this authority, the Administrator promulgated the General Provisions of the NSPS at 40 C.F.R Part 60, Subpart A and NSPS for Industrial-Commercial-Institutional Steam Generating Units at 40 C.F.R. Part 60, Subpart Db.

10. Subpart A at 40 C.F.R §§ 60.1-60.19, applies to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication in this part of any standard (or, if earlier, the date of publication of any proposed standard) applicable to that facility. 40 C.F.R § 60.1(a).

11. Subpart Db at 40 C.F.R §§ 60.40b-60.49b, applies to steam generating units that commenced construction, modification, or reconstruction after June 19, 1984 and that have a heat input capacity from fuels combusted in the steam generating unit of greater than 100 million British thermal units per hour (“MMBtu/hr”). 40 C.F.R § 60.40b(a).

12. Failure to comply with Subparts A and Db is subject to enforcement under Section 113 of the Act. 42 U.S.C. § 7413(a)(3).

13. A “stationary source” is any building, structure, facility, or installation which emits or may emit any air pollutant. 40 C.F.R. § 60.2.

14. An “affected facility” is a stationary source that has an apparatus to which a standard of performance, listed in 40 C.F.R. Part 60, is applicable. 40 C.F.R. § 60.2.

15. “Opacity” is the degree to which emissions reduce the transmission of light. 40 C.F.R. § 60.2.

16. An affected facility that combusts wood fuel shall not emit gases with greater than 20 percent opacity (6-minute average), except for one 6-minute period per hour of not more than 27 percent opacity. 40 C.F.R. § 60.43b(f).

17. Section 302(e) of CAA, 42 U.S.C. § 7602(e), defines “person” as an individual, corporation, partnership, association, state, municipality, political subdivision of a State, and any agency, department, and instrumentality of the United States and any officer, agent, or employee thereof.

18. An “owner or operator” is any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source of which an affected facility is a part. 40 C.F.R. § 60.2.

19. An owner or operator of an affected facility subject to the opacity standard under 40 C.F.R. § 60.43b must install, calibrate, maintain, and operate a continuous opacity monitoring system (“COMS”) for measuring the opacity of emissions discharged to the atmosphere and record the output of the system. 40 C.F.R. § 60.48b(a).

20. An owner or operator of an affected facility subject to the opacity standard under 40 C.F.R. § 60.43b must maintain records of opacity. 40 C.F.R. § 60.49b(f).

21. An owner or operator of an affected facility subject to the opacity standard under 40 C.F.R. § 60.43b must submit excess emission reports (“EERs”) for any excess emissions for opacity that occurred during the reporting period. 40 C.F.R. § 60.49b(h).

22. The owner or operator must submit these EERs every six-months and the EERs must be postmarked by the 30th day following the end of each six-month period. 40 C.F.R. § 60.49b(w).

23. An owner or operator of an affected facility subject to Subpart A must maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation

of the affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system (“CMS”) or monitoring device is inoperative. 40 C.F.R. § 60.7(b).

24. The owner or operator of an affected facility subject to Subpart A must report the duration of excess emissions due to startup/shutdown, control equipment problems, process problems, and other known and unknown causes; as well as report the CMS downtime due to monitor equipment malfunctions, non-monitor equipment malfunctions, quality assurance calibration, and other known and unknown causes. 40 C.F.R. § 60.7(d).

25. Each owner or operator required to install a CMS shall submit EERs semi-annually to the Administrator. Reports must be postmarked by the 30th day following the end of each six-month period. 40 C.F.R. § 60.7(c).

C. ALLEGATIONS

GENERAL ALLEGATIONS

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

27. At all times relevant to this CAFO, Respondent owned and operated a softwood veneer plant located at 98 Mill Street, Weed, CA 96094 (the “Facility”).

28. The Facility is a “stationary source” as that term is defined in 40 C.F.R. § 60.2.

29. Since 1996, Respondent has operated a Foster Wheeler water tube steam generator (“Boiler”) fueled by waste wood and bark with a heat input capacity of 169.7 MMBtu/hr at the Facility.¹

30. Accordingly, the Boiler is prohibited from emitting gases with greater than 20 percent opacity (6-minute average), except for one 6-minute period per hour of not more than 27 percent opacity, pursuant to 40 C.F.R. § 60.43b(f).

31. The Facility is an “affected facility” as that term is defined in 40 C.F.R. § 60.2, because it contains the Boiler, which is subject to the opacity standard at 40 C.F.R. § 60.43b(f).

32. Respondent is an “owner or operator” of an affected facility as that term is defined in 40 C.F.R. § 60.2.

1. Respondent is in the process of upgrading the Boiler, which will increase its heat input capacity to 226 MMBtu/hr.

COUNT 1: FAILURE TO CONTINUOUSLY MONITOR OPACITY

33. EPA realleges and incorporates by reference herein Paragraphs 1 through 32.

34. From June 15 to June 30, 2008, Respondent was required to calibrate, maintain, and operate a COMS for measuring the opacity of emissions discharged to the atmosphere and record the output of the system, pursuant to 40 C.F.R. § 60.48b(a).

35. Respondent failed to continuously monitor and record the opacity of Boiler emissions discharged to the atmosphere from June 15 to June 30, 2008.

36. Respondent's failure to continuously monitor the opacity of emissions that the Boiler discharged to the atmosphere and record the output from June 15 to June 30, 2008 constitutes a violation of Section 111 of the Act and 40 C.F.R. § 60.48b(a) that lasted for 15 days.

**COUNT 2: FAILURE TO SUBMIT ACCURATE EER
FOR PERIOD ENDING ON JUNE 30, 2008**

37. EPA realleges and incorporates by reference herein Paragraphs 1 through 32.

38. Respondent was required to submit an accurate EER, for any excess emission that occurred during the reporting period to the Administrator, pursuant to 40 C.F.R. §§ 60.7(c) and 60.49b(h).

39. For the January – June 2008 reporting period, Respondent reported zero minutes of downtime for the opacity monitor on the EER, even though the COMS failed to continuously monitor and record opacity of Boiler emissions discharged to the atmosphere from June 15 to June 30, 2008.

40. Thus, Respondent submitted an inaccurate EER for the January – June 2008 reporting period.

41. Respondent's failure to submit an accurate EER for opacity for the reporting period ending on June 30, 2008 constitutes a violation of Section 111 of the Act and 40 C.F.R. §§ 60.7(c) and 60.49b(h).

**COUNT 3: FAILURE TO SUBMIT ACCURATE EER
FOR PERIOD ENDING ON DECEMBER 31, 2008**

42. EPA realleges and incorporates by reference herein Paragraphs 1 through 32.

43. Respondent was required to submit an EER, for any excess emission that occurred

during the reporting period to the Administrator, pursuant to 40 C.F.R. §§ 60.7(c) and 60.49b(h).

44. For the July – December 2008 reporting period, Respondent reported less than 6 minutes of non-operation of the Boiler, even though the Boiler was not operating for most of July 3 to July 6, 2008 and for about half the day on November 8, 2008.

45. Thus, Respondent submitted an inaccurate EER for the July – December 2008 reporting period.

46. Respondent's failure to submit an accurate EER for opacity for the period ending on December 31, 2008 constitutes a violation of Section 111 of the Act and 40 C.F.R. §§ 60.7(c) and 60.49b(h).

COUNTS 4-6: FAILURE TO SUBMIT TIMELY EERS

47. EPA realleges and incorporates by reference herein Paragraphs 1 through 32.

48. Respondent was required to submit EERs semi-annually to the Administrator by the 30th day following the end of the six-month period, pursuant to 40 C.F.R. §§ 60.7(c) and 60.49b(w).

49. Respondent sent EPA the EER for the 6-month period ending June 30, 2007 on March 19, 2009, approximately 598 days after the 30-day submission deadline.

50. Respondent sent EPA the EER for the 6-month period ending December 31, 2007 on March 19, 2009, approximately 414 days after the 30-day submission deadline.

51. Respondent sent EPA the EER for the 6-month period ending June 30, 2008 on January 30, 2009, approximately 184 days after the 30-day submission deadline.

52. Respondent's failures to submit an EER for opacity by the 30th day following the end of each six-month period ending June 30, 2007, December 31, 2007, and June 30, 2008 constitute three violations of Section 111 of the Act and 40 C.F.R. §§ 60.7(c) and 60.49b(w).

COUNT 7: FAILURE TO CONTINUOUSLY MONITOR NOX

53. EPA realleges and incorporates by reference herein Paragraphs 1 through 32.

54. Respondent is required to maintain, calibrate and operate a continuous emission monitor for nitrogen oxides ("NO_x"), pursuant to Condition 23 of the ATC Permit, which is required under Rule 2.01.

55. Respondent did not monitor NO_x from approximately January 16, 2008, at 6:00 a.m. to February 2, 2008, at 3:00 a.m. (18 days); approximately February 16, 2008, at 7:00 a.m. to

March 2, 2008, at 4 a.m. (16 days); approximately July 4, 2008, at 3:00 a.m. to July 6, 2008, at 7:00 p.m. (3 days); approximately October 10, 2008, at 2:00 a.m. to October 15, 2008, at 2:00 p.m. (6 days); and June 7, 2009, at 11:00 a.m. to June 11, 2009, at 9:00 a.m. (5 days) -- for approximately 48 days in 2008 and 2009.

56. Respondent's failure to continuously monitor NOx from the Boiler for approximately 48 days in 2008 and 2009 is a violation of Condition 23 of the ATC permit.

57. Respondent's operation of the Boiler contrary to ATC Permit Condition 23 is a violation of the California SIP and Section 110 of the Act.

D. RESPONDENT'S ADMISSIONS

58. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in Section I.C of this CAFO; (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section I.E of this CAFO; (iv) waives any right to contest the allegations contained in Section I.C of this CAFO; and (v) waives the right to appeal the proposed final order contained in this CAFO.

E. CIVIL ADMINISTRATIVE PENALTY

59. Respondent agrees to the assessment of a penalty in the amount of **SEVENTY-FIVE THOUSAND DOLLARS (\$75,000)** as final settlement of the civil claims against Respondent arising under the Act as alleged in Section I.C of this CAFO.

60. Respondent shall pay the assessed penalty no later than thirty (30) days from the effective date of this CAFO. The civil penalty shall be paid by remitting a certified or cashier's check, including the name and docket number of this case, for the amount, payable to "Treasurer, United States of America," (or be paid by one of the other methods listed below) and sent as follows:

Regular Mail:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

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"

Overnight Mail:

U.S. Bank

1005 Convention Plaza

Mail Station SL-MO-C2GL

ATTN Box 979077

St. Louis, MO 63101

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency

PNC Bank

808 17th Street, NW

Washington, DC 20074

ABA = 051036706

Transaction Code 22 - checking

Environmental Protection Agency

Account 31006

CTX Format

On Line Payment:

This payment option can be accessed from the information below:

www.pay.gov

Enter "sfo1.1" in the search field

Open form and complete required fields

If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati Finance Center at 513-487-2091.

A copy of each check, or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, shall be sent with a transmittal letter, indicating Respondent's name, the case title, and docket number, to both:

- a) Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

- b) Chief, Air Enforcement Office
Air Division (AIR-5)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

61. Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes.

62. If Respondent fails to pay the assessed civil administrative penalty specified in Paragraph 59 by the deadline specified in Paragraph 60, then Respondent shall pay to EPA the stipulated penalty of \$500 for each day the penalty is late, which shall become due and payable upon EPA's written request. Such failure by Respondent may also subject Respondent to a civil action to collect any unpaid portion of the assessed penalty, together with interest, handling charges, and nonpayment penalties as set forth in Paragraph 63 below. In any such collection action, the validity, amount, and appropriateness of this CAFO or the penalty assessed hereunder are not subject to review.

63. Pursuant to 42 U.S.C. § 7413(d)(5) and 31 U.S.C. § 3717 Respondent shall pay the following amounts:

a. Interest: Any unpaid portion of the assessed penalty shall bear interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2) from the effective date of this CAFO, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within thirty (30) days of the effective date of this CAFO.

b. Handling Charge: Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid for any month in which any portion of the assessed penalties is more than 30 days past due.

c. Attorney Fees, Collection Costs, Nonpayment Penalty: Pursuant to 42 U.S.C. § 7413(d)(5), if Respondent fails to pay on a timely basis the full amount of the assessed penalty,

interest, and handling charges, it shall be liable for the United States' enforcement and collection expenses, including, but not limited to, attorney fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent (10%) of the aggregate amount of Respondent's outstanding or overdue penalties and nonpayment penalties accrued from the beginning of such quarter.

F. RETENTION OF RIGHTS

64. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Section I.C of this CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in Section I.C of this CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in Section I.C of this CAFO.

65. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

G. ATTORNEYS' FEES AND COSTS

66. Except as set forth in Paragraph 63(c) above, each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

H. EFFECTIVE DATE

67. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the final order contained in this CAFO, having been approved and issued by the Regional Judicial Officer, is filed.

I. BINDING EFFECT

68. The undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.

69. The provisions of this CAFO shall apply to and be binding upon Respondent and its

officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

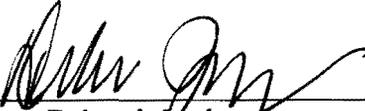
70. This Consent Agreement constitutes the entire agreement between the parties resolving this matter arising under the CAA.

71. This document constitutes an "enforcement response" as that term is used in EPA's Penalty Policy for the purposes of determining Respondent's "full compliance history" as provided in Section 113(e) of the Act, 42 U.S.C. § 7413(e).

FOR RESPONDENT, ROSEBURG FOREST PRODUCTS COMPANY:

Date: 1/19/2011 By: 
Name (Printed): Chuck Ulik
Title: COO

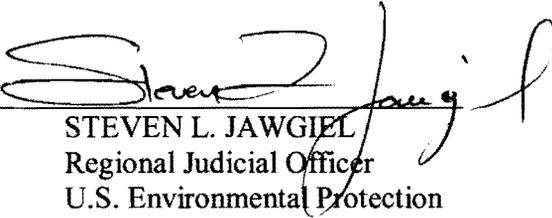
FOR COMPLAINANT, EPA REGION IX:

Date: 4/19/2011 By: 
Deborah Jordan
Director, Air Division
U.S. ENVIRONMENTAL PROTECTION
AGENCY, REGION IX

II. FINAL ORDER

Complainant and Respondent, having entered into the foregoing Consent Agreement, IT IS HEREBY ORDERED that this CAFO (Docket No. CAA-09-2011-~~000~~ |) be entered, and that Respondent shall pay a civil administrative penalty in the amount of **SEVENTY-FIVE THOUSAND DOLLARS (\$75,000)** and comply with the terms and conditions set forth in the Consent Agreement.

04/20/11
DATE


STEVEN L. JAWGIEL
Regional Judicial Officer
U.S. Environmental Protection
Agency, Region IX

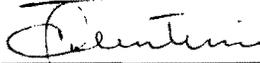
CERTIFICATE OF SERVICE

I certify that the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, United States Environmental Protection Agency – Region 9, 75 Hawthorne Street, San Francisco, California 94105, and that a true and correct copy of the Consent Agreement and Final Order was placed in the United States Mail, certified mail, return receipt requested, addressed as follows:

Allyn Ford
President
Roseburg Forest Products Company
P.O. Box 1088
Roseburg, OR 97470

Certified Mail Number: 7010 3090 0001 2472 5094

Dated: 4/22/11



For: Steven Armsey
Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
US Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105