

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Yellowstone County
Air Pollution
Control Program

56.9.3.22 JUNE 12, 1998 ORDER OF THE BOARD OF ENVIRONMENTAL REVIEW
CONCERNING THE WESTERN SUGAR COMPANY, BILLINGS, MT.

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BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the Matter of the Application
of the Department of Health and
Environmental Sciences for Revision
of the Montana State Air Quality
Control Implementation Plan Relating
to Control of Sulfur Dioxide Emissions
in the Billings/Laurel Area, Affecting
the Following Industries: Cenex, Inc.
(Laurel); Conoco, Inc.; Exxon Company,
USA; Montana Power Company, (J.E.
Corette and F. Bird Plants); Montana
Sulphur and Chemical Company; The
Western Sugar Company; and Yellowstone
Energy Limited Partnership.

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER ADOPTING
STIPULATION OF
DEPARTMENT AND
WESTERN SUGAR COMPANY

The Department of Environmental Quality (Department) has requested an Order from the Board of Environmental Review (Board) adopting a sulfur dioxide control plan for The Western Sugar Company (Western Sugar). The control plan, together with the control plans for the other above-captioned industries, is intended to attain and maintain the SO₂ National Ambient Air Quality Standards ("NAAQS") in the Billings/Laurel Area.

Pursuant to public notice, and on June 12, 1998, the Board conducted a hearing in Helena, Montana on the proposed revisions to the control plans. At the hearing an opportunity for comment was provided to the Department, the affected industries, and interested members of the public. Based on the record in this proceeding, the Board enters the following Findings of Fact, Conclusions of Law and Order in regard to this matter:

FINDINGS OF FACT

1. The above-captioned matter was initiated in 1994 by a petition of the Department of Health and Environmental Sciences. The petition requested an Order from the Board of Health and Environmental Sciences adopting sulfur dioxide control plans for the seven named Billings/Laurel industries. The sulfur dioxide control plans were developed in response to a March 4, 1993, letter from the U.S. Environmental Protection Agency (EPA) calling for revisions to Montana's sulfur dioxide State Implementation Plan (SIP). The Board of Health and Environmental Sciences approved six of the control plans

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1 in May of 1995. This Board approved the seventh plan (with corresponding revisions to
2 the other plans) in August of 1996. On August 27, 1996, Montana submitted the plans to
3 EPA as a SIP revision. Prior to EPA action on the plans, minor adjustments to the Exxon
4 plan were approved by this Board in February of 1997.

5 2. In February and June of 1997, without issuing a formal approval or
6 disapproval of the initial control plans, EPA notified the Department of several areas in
7 which EPA had questions about the approvability of the SIP. After discussions with EPA
8 and the affected industries, the Department, in January of 1998, committed to make
9 revisions to the plans to address most of EPA's concerns. Negotiations between the
10 Department and the affected Billings/Laurel industries have resulted in the set of revised
11 control plans currently before this Board.

12 3. The sulfur dioxide control plan for Western Sugar is contained in the
13 Stipulation, Exhibit A, and Attachment(s) that are attached to this Order and are
14 incorporated herein by reference. The Board has examined the Findings of the Stipulation
15 and hereby ratifies and adopts them as the Board's Findings.

16 4. It is the intent of the parties that the attached emission control plan for
17 Western Sugar, after adoption and incorporation by Board Order, shall be submitted to the
18 EPA for review and approval as part of the revised SO₂ SIP for the Billings/Laurel area.

19 5. The Department has issued public notice of the proposed revisions to the
20 sulfur dioxide control plans. Notice was published, at least 30 days prior to the date of the
21 hearing in this matter, by prominent advertisement in the affected area. A copy of the
22 proposed revisions was made available for public inspection.

23
24 CONCLUSIONS OF LAW

25 Based on the foregoing Findings of Fact, the Board hereby enters the following
26 Conclusions of Law:

27 1. The public has been provided with appropriate notice and an opportunity to

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1 participate in this matter. Title 2, chapters 3 and 4, MCA. The federal requirements for
2 notice and hearing prior to adoption and submittal of SIP revisions have been met. 40 CFR
3 §51.102.

4 2. The Department is required to prepare and develop a comprehensive plan
5 for the prevention, abatement, and control of air pollution in this state. Section 75-2-
6 112(2)(c), MCA.

7 3. The Board has authority to issue orders necessary to effectuate the purposes
8 of Title 75, Chapter 2, MCA. Section 75-2-111(3), MCA.

9 4. A Board Order adopting the attached Stipulation, Exhibit A, and
10 Attachment(s) is necessary to comply with the March 4, 1993, EPA request that the
11 Billings/Laurel SIP be revised.

12 5. All Findings of Fact are hereby incorporated in these Conclusions of Law.

14 ORDER

15 Based on the foregoing Findings of Fact and Conclusions of Law, IT IS HEREBY
16 ORDERED THAT:

17 1. The sulfur dioxide control plan for Western Sugar set forth in the attached
18 Stipulation, Exhibit A, and Attachment(s) is adopted by the Board and incorporated herein
19 as part of this Order.

20 2. This Order shall be enforceable by the Department.

21 3. Modifications of this Order shall only be by initiation of the Board or by
22 petition to the Board and the issuance of a subsequent order revising this Order.

23
24 DATED this 12th day of June, 1998

25
26 By: Cindy E. Younkin
27 CINDY E. YOUNKIN
Chairperson
Board of Environmental Review

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