

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Yellowstone County
Air Pollution
Control Program

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 & Chemical Company; The
Western Sugar Company; and Yellowstone
Energy Limited Partnership.

STIPULATION OF
DEPARTMENT AND
WESTERN SUGAR COMPANY

The Department of Environmental Quality ("Department"), and Western Sugar
Company ("Western Sugar"), hereby stipulate to the following paragraphs 1-20, including
Exhibit A and Attachment #1, in regard to the above-captioned matter and present the same
for consideration and adoption by the Board of Environmental Review ("Board").

This Stipulation nullifies and supersedes all Stipulations which were executed by
Western Sugar and the Department in this matter and which were adopted by the Board
prior to June 12, 1998.

1. On April 30, 1971, the United States Environmental Protection Agency
("EPA") promulgated national ambient air quality standards ("NAAQS") for Sulfur Oxides
(measured as sulfur dioxide "SO₂"). The primary annual standard is 80 micrograms per
cubic meter (annual arithmetic mean) or 0.03 parts per million (PPM); the primary 24-hour
standard is 365 micrograms per cubic meter (24-hour maximum concentration) or 0.14
parts per million (PPM), not to be exceeded more than once per year. A secondary
standard for SO₂ was also promulgated by EPA. The secondary standard is 1300
micrograms per cubic meter (maximum 3-hour concentration) or 0.5 PPM of SO₂ not to be
exceeded more than once per year. These standards were promulgated by EPA pursuant to
Section 109 of the Federal Clean Air Act, 42 U.S.C. 7401, as amended by the Clean Air

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- 1 Act Amendments of 1990 ("Act").
- 2 2. Section 110 of the Act requires each state to submit an implementation plan
- 3 for the control of each air pollutant for which a national ambient air quality standard has
- 4 been promulgated. Since a national standard has been promulgated for sulfur oxides, the
- 5 State of Montana is required to submit to EPA an implementation plan for SO₂.
- 6 3. In April, 1979, the Department submitted an addendum to the State
- 7 Implementation Plan for the Billings/Laurel area designed to achieve compliance with the
- 8 NAAQS for SO₂ (hereafter "Billings/Laurel Plan"). EPA approved the Billings/Laurel
- 9 Plan in September, 1979.
- 10 4. In a March 4, 1993, letter to the Governor of Montana, EPA stated that it
- 11 had determined the Billings/Laurel Plan to be substantially inadequate to attain and
- 12 maintain the SO₂ NAAQS and EPA stated that the Plan must be revised. The letter called
- 13 for a SIP revision for the Billings/Laurel area to assure attainment and maintenance of the
- 14 SO₂ NAAQS.
- 15 5. The EPA letter of March 4, 1993, established September 4, 1994, as the
- 16 deadline to submit to EPA a revised or new SO₂ plan for the Billings/Laurel area.
- 17 6. Utilizing a dispersion modeling analysis, Western Sugar and the
- 18 Department have developed an emission control strategy that, together with similar control
- 19 strategies for other Billings/Laurel industries, is intended to assure attainment and
- 20 maintenance of the primary and secondary SO₂ NAAQS. Western Sugar's acceptance of
- 21 this Stipulation and of the assumptions and results of the dispersion modeling analysis
- 22 conducted in this case is for the sole and exclusive purpose of implementing the SO₂ emis-
- 23 sion control strategy contained in this Stipulation, Exhibit A, and Attachment #1. In the
- 24 event of future revisions to the SO₂ emission control strategy contained in this Stipulation,
- 25 Exhibit A, and Attachment #1, Western Sugar does not waive and shall not be precluded
- 26 from raising any objections it may have including but not limited to those pertaining to the
- 27 dispersion modeling analysis.

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1 7. The purpose of this Stipulation and the emission limitations and other
2 limitations contained in Exhibit A and Attachment #1 is to establish an emission control
3 strategy for Western Sugar which, together with similar control strategies for the other
4 Billings/Laurel industries, will assure attainment and maintenance of the primary and
5 secondary SO₂ NAAQS. The Stipulation, Exhibit A, and Attachment #1 do not address
6 attainment or maintenance of the Montana Ambient Air Quality Standards (MAAQS).

7 8. Exhibit A, which is attached to this Stipulation and incorporated herein by
8 reference, contains emission limitations and other conditions, including but not limited to:
9 methods for determining compliance with emission limitations, requirements by which
10 such emission limitations are made quantifiable and enforceable by the Department, and
11 facility modification requirements. Western Sugar shall comply with the terms of this
12 Stipulation, the emission limitations and other conditions set forth in Exhibit A and
13 Attachment #1.

14 9. The following Attachment is attached to Exhibit A and is incorporated
15 therein and in this Stipulation by reference:

16 Attachment 1: Performance Specifications for Stack Flow Rate Monitors,
17 Fuel Oil Flow Meters, and Fuel Oil Sulfur Analysis.

18 10. Upon written certification by the Department that Attachment #1 has been
19 revised in accordance with the requirements of Exhibit A, the revision shall be deemed
20 incorporated in Exhibit A and this Stipulation by reference, and shall be enforceable from
21 the date of the Department certification.

22 11. Disputes between the parties, during the development of a revised
23 Attachment #1, as to whether a draft revision is in accordance with the requirements of
24 Exhibit A must be submitted to the Board prior to judicial review of the dispute. The
25 Board will exercise reasonable diligence in rendering a determination on the disputed
26 matter. This paragraph shall not be construed to preclude the Department from directly
27 seeking judicial enforcement of the final Attachment #1 or of any other provision of this

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1 Stipulation or Exhibit A.

2 12. For the exclusive purpose of implementing the sulfur dioxide emission
3 control strategy contained in this Stipulation, Exhibit A, and Attachment #1, ARM
4 17.8.322 shall be interpreted to mean that no person shall burn solid, liquid, or gaseous
5 fuels such that the aggregate sulfur content of all fuels burned within a plant during any
6 day exceeds one pound of sulfur per million BTU fired. The rule shall be interpreted to
7 allow for a daily deviation of 0.1 pound of sulfur per million BTU fired. The rule shall be
8 interpreted to allow the blending of all fuels burned in a plant during a given time period in
9 determining the aggregate sulfur content for purposes of the rule, and it shall not be
10 construed to require blending or physical mixing of fuels at any given furnace or heater
11 within the plant complex.

12 13. The Stipulation, Exhibit A, and Attachment #1 shall become effective
13 immediately upon the issuance of an order by the Board in this proceeding, except where
14 another effective date is specified in Exhibit A or Attachment #1.

15 14. It is the intent of the parties that this Stipulation, Exhibit A, and Attachment
16 #1, after adoption and incorporation by Board order, shall be submitted to the
17 Environmental Protection Agency for review and approval as the Western Sugar control
18 strategy for the attainment and maintenance of the primary and secondary SO₂ NAAQS in
19 Yellowstone County, as part of the State Implementation Plan. The Stipulation
20 Requirements shall supersede any less stringent corresponding conditions pertaining to SO₂
21 sources in any existing permit currently issued to Western Sugar.

22 15. The Stipulation, Exhibit A, and Attachment #1 are intended to assure
23 attainment and maintenance of the primary and secondary NAAQS for SO₂. The
24 Stipulation, Exhibit A, and Attachment #1 are not intended to address attainment or
25 maintenance of the Montana Ambient Air Quality Standards (MAAQS).

26 16. This Stipulation, Exhibit A, or Attachment #1 may be subject to
27 modification upon the occurrence of certain modifying conditions. Such modifying

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1 conditions include, but are not limited to, the following:
2 (a) an EPA determination that the submitted plan is incomplete;
3 (b) an EPA disapproval, either partial or complete, of the submitted plan;
4 (c) an EPA conditional approval of the submitted plan;
5 (d) a determination by EPA that this plan has failed to achieve or maintain the
6 NAAQS; or
7 (e) a demonstration by Western Sugar, utilizing Department and EPA approved
8 dispersion modeling techniques (provided for in Appendix W of 40 CFR Part 51. These
9 approved dispersion modeling techniques include, but are not limited to CTDMplus and
10 ISC.), that the NAAQS can be achieved and maintained by implementing an alternative
11 control plan.
12 Such alternative control plans, include but are not limited to:
13 (i) plans based upon a single emission limitation for several sources or stacks
14 (emission bubbling or trading);
15 (ii) a stack height of 65 meters; or a taller stack height that Western Sugar
16 demonstrates, through a fluid model or field study approved by the Department and EPA,
17 is Good Engineering Practice;
18 (iii) an emission limitation that varies in accordance with the buoyancy flux of the
19 plume; or
20 (iv) the realignment of emission limitations among the emission points within a
21 facility
22 17. Procedures for modification of this Stipulation, Exhibit A, and Attachment
23 #1 shall be as follows:
24 Board Approval
25 a. Stipulation and Exhibit. All modifications of the text of this Stipulation and
26 Exhibit A shall require issuance of a revised Board order. Minor and clerical corrections
27 may be made to this Stipulation and Exhibit A by mutual agreement of the parties, without

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- 1 the necessity for a revised Board order.
- 2 b. Attachment #1. As provided in Paragraph 10, upon written
3 certification by the Department that Attachment #1 has been revised in accordance with the
4 requirements of Exhibit A, the revision shall be deemed incorporated in Exhibit A and this
5 Stipulation by reference, without the necessity for a revised Board order.
- 6 c. Implementation Approvals. Where Exhibit A or Attachment #1 authorizes
7 the Department and EPA to approve an alternative requirement or methodology, the
8 implementation of such approval shall not require issuance of a revised Board order.
- 9 EPA Approval for SIP Changes
- 10 d. Stipulation, Exhibit, and Attachment #1. Following EPA approval pursuant
11 to paragraph 14, all modifications of the text of this Stipulation, Exhibit A, and Attachment
12 #1 shall require the approval of EPA under either subparagraph 17(f) or (g). To the extent
13 allowed under federal requirements, minor and clerical corrections may be made by mutual
14 agreement of the parties, without the necessity for formal approval by EPA.
- 15 e. Implementation Approvals. Where Exhibit A or Attachment #1 authorizes
16 the Department and EPA to approve an alternative requirement or methodology, such EPA
17 approval shall be obtained under either subparagraph 17(f) or (g).
- 18 f. Title I Procedures. Until the issuance of a Title V operating permit for
19 Western Sugar and the adoption of the enabling state administrative rule described in
20 paragraph 17(g), all nonclerical modifications to the text of this Stipulation, Exhibit A, or
21 Attachment #1 described in paragraph 17(d), and all implementation approvals described in
22 subparagraph 17(e), shall be submitted to EPA under Title I of the federal Clean Air Act.
23 The SIP revision procedures contained in 40 CFR Part 51 Subpart F shall not apply to
24 modifications and approvals under subparagraphs 17(d) and (e) that constitute "minor
25 modifications" as determined pursuant to subparagraph 17(h).
- 26 g. Title V Procedures. Title V operating permit revision procedures may be
27 used to modify the SIP to include textual modifications under subparagraph 17(d) and

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1 implementation approvals under subparagraph 17(e), provided that the following two
2 conditions are met:

3 (i) Western Sugar has been issued a Title V operating permit and the State has
4 adopted an enabling administrative rule that complies with the federal requirements for
5 modification of SIP requirements through the Title V process; and

6 (ii) the particular modification of the plan or implementation approval pertains
7 to testing, monitoring, recordkeeping, calculation, reporting, or operating requirements or
8 methodologies.

9 h. Minor Modifications. When a modification or approval under subparagraph
10 17(d) or (e) is proposed the Department shall consult with EPA to determine whether the
11 modification or approval is a "major" or "minor" modification. Such determinations shall
12 be made within 45 days from the submittal of the proposed modification or approval to
13 EPA..

14 18. Western Sugar does not waive and expressly reserves its right to contest any
15 Board order or Department or federal action which, without the written consent of Western
16 Sugar, modifies this stipulation, Exhibit A, or Attachment #1.

17 19. Accordingly, the parties agree that the Board shall issue an order adopting
18 the terms of this Stipulation, including the emission limitations and other conditions
19 contained in Exhibit A and Attachment #1. Except where another effective date is
20 provided in Exhibit A or Attachment #1, upon adoption in a Board Order, the Stipulation,
21 Exhibit A, and Attachment #1 shall be enforceable by the Department.

22 ~~20. Notwithstanding any other provision of this Stipulation, Western Sugar's~~
23 ~~and the Department's consent to be bound by the terms of this Stipulation is conditioned~~
24 ~~upon the adoption of SO₂ emission control strategies, for all the affected industries in this~~
25 ~~matter, which are in their common terms substantially similar to one another. This~~
26 ~~condition of substantial similarity extends only to the initial control strategies, adopted by~~
27 ~~the Board or by the U.S. EPA as a Federal Implementation Plan, and which are adopted in~~

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1 ~~response to the EPA letter of March 4, 1993 calling for revision of the Billings/Laurel SO₂~~
2 ~~SIP. This condition of substantial similarity does not extend to subsequent revisions of~~
3 ~~such initial emissions control strategies, but does extend to and include any revisions of~~
4 ~~such emission control strategies resulting from any challenge or appeal of the initial~~
5 ~~adopted emissions control strategies. In the event that an initial control strategy is finally~~
6 ~~adopted by the Board or EPA, for any of the affected industries in this matter, which is not~~
7 ~~substantially similar in its common terms to this Stipulation or Exhibit A, either Western~~
8 ~~Sugar or the Department may, in a writing delivered to the other party and to the other~~
9 ~~affected industries in this matter within 60 days of receiving written notice of the adoption,~~
10 ~~withdraw its consent to this Stipulation.~~

11
12 Western Sugar Company

Montana Department of
Environmental Quality

13
14
15 By Raymond Bode

By Mark Simonich
Mark Simonich, Director

16
17
18 Date 5/29/98

Date 6/9/98

19
20 Approved as to form:

Approved as to form:

21
22 By _____
23 Attorney

By James M. Madd
Attorney

24
25 Date _____

Date 6/9/98

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