

STATE OF MONTANA AIR QUALITY CONTROL IMPLEMENTATION PLAN	Subject: Yellowstone County Air Pollution Control Program
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56.9.3.26 MARCH 17, 2000 ORDER OF THE BOARD OF ENVIRONMENTAL REVIEW
CONCERNING YELLOWSTONE ENERGY LIMITED PARTNERSHIP,
BILLINGS, MT

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Planning Division

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the Matter of the Application of)
the Department of Environmental)
Quality 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; and)
Yellowstone Energy Limited Partnership.)

**FINDINGS OF FACT,
CONCLUSIONS OF
LAW, AND ORDER
ADOPTING STIPULATION
OF DEPARTMENT AND
YELLOWSTONE ENERGY
LIMITED PARTNERSHIP**

The Department of Environmental Quality ("Department") has requested an Order from the Board of Environmental Review ("Board") adopting revisions to the sulfur dioxide control plan for the Yellowstone Energy Limited Partnership ("YELP"). As amended by the revisions contained herein, the control plan, together with the control plans for the other above-captioned industries, is intended to attain and maintain the sulfur dioxide National Ambient Air Quality Standards ("NAAQS") in the Billings/Laurel area.

Pursuant to public notice, on March 17, 2000, the Board conducted a hearing in Helena, Montana, on the proposed revisions to the control plan. At the hearing an opportunity for comment was provided to the Department, YELP, 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

On June 9, 1998, the Department and YELP executed a document entitled "Stipulation of Department and YELP," which included an Exhibit A and Attachment 1 (collectively "1998 YELP Stipulation"). The 1998 YELP Stipulation contained the sulfur dioxide (SO₂) control plan for YELP, as part of the state's efforts to revise the State Implementation Plan for the control of SO₂ emissions in the Billings/Laurel area

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("Billings/Laurel SIP"). On June 12, 1998, the Board issued its Findings of Fact, Conclusions of Law and Order ("1998 YELP Order") which expressly adopted and incorporated the 1998 YELP Stipulation as an enforceable Order of the Board.

2. On March 4, 1993, the United States Environmental Protection Agency ("EPA") notified the Governor of Montana that it had determined that the existing implementation plan for the control of SO₂ emissions in the Billings/Laurel area was substantially inadequate to attain and maintain the SO₂ NAAQS. The letter further called for a revision to the implementation plan for the Billings/Laurel area, to assure attainment and maintenance of the SO₂ NAAQS.

3. The express purpose of the 1998 YELP Stipulation was to "establish an emission control strategy for YELP which, together with similar control strategies for the other Billings/Laurel industries, will assure attainment and maintenance of the primary and secondary SO₂ NAAQS." (1998 YELP Stipulation, para. 7). On July 29, 1998, the 1998 YELP Stipulation was submitted to EPA as a revision to the existing Billings/Laurel SIP, in response to the March 1993 SIP Call.

4. In letters to the Department dated January 15 and March 2, 1999, EPA identified concerns with the 1998 YELP Stipulation. (Letters from Richard Long, to Mark Simonich, dated 1/15/99 and 3/2/99). Specifically, EPA noted there were questions regarding the practical enforceability and pro-rating of emission limitations for the Coker CO Boiler stack of Exxon Company, USA (now Exxon Mobil Corporation), and YELP's boilers. In a letter dated March 24, 1999, Governor Marc Racicot committed that the Department would revise the Billings/Laurel SIP to address these concerns.

5. As part of the current proceeding, the Department and YELP have submitted to the Board a "Stipulation of Department and Yellowstone Energy Limited Partnership," dated February 14, 2000 ("2000 YELP Stipulation"), that contains the revisions to the 1998 YELP Stipulation that are necessary to fulfill the Department's commitment to EPA to address the issues described above in paragraph 4. The 2000 YELP Stipulation will be effective immediately upon the issuance of an Order by the Board in this proceeding.

6. The Board adopts the 2000 YELP Stipulation, and incorporates that document in its entirety as a part of this Order. Unless expressly stated otherwise in the 2000 YELP Stipulation, this Order does not in any way supercede or alter the provisions of the 1998

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YELP Order (and the 1998 YELP Stipulation and exhibit and attachment adopted therein), and the 1998 YELP Order remains in full force and effect, as part of the Department's control plan for SO₂ emissions in the Billings/Laurel area.

7. It is the intent of the Department and YELP that both the 2000 YELP Stipulation (after adoption and incorporation by the Board), and this Order, shall be submitted to EPA for review and approval as revisions to the YELP control strategy for the attainment and maintenance of the primary and secondary SO₂ NAAQS in the Billings/Laurel area, as part of the State Implementation Plan. The revised requirements in this Order and the 2000 YELP Stipulation shall supersede any less stringent corresponding conditions pertaining to SO₂ sources in any existing permit currently issued to YELP.

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

CONCLUSIONS OF LAW

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

1. The public has been provided with appropriate notice and an opportunity to participate in this matter. Title 2, Chapters 3 and 4, MCA. The federal requirements for notice and hearing prior to adoption and submittal of SIP revisions have been met. 40 CFR § 51.102.
2. The Department is required to prepare and develop a comprehensive plan for the prevention, abatement, and control of air pollution in this state. Section 75-2-112(2)(c), MCA.
3. The Board has authority to issue orders necessary to effectuate the purposes of Title 75, Chapter 2, MCA. Section 75-2-111(3), MCA.
4. A Board Order adopting the attached Stipulation of the Department and Yellowstone Energy Limited Partnership, dated February 14, 2000, is appropriate to comply with the March 4, 1993, EPA request to revise the Billings/Laurel SIP, and to address the

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concerns identified by EPA in the letters to the Department dated January 15 and March 2, 1999.

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

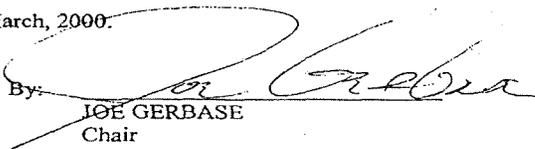
ORDER

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

1. The revisions to the sulfur dioxide control plan for YELP set forth in the attached Stipulation of the Department and Yellowstone Energy Limited Partnership, dated February 14, 2000, is adopted by the Board and incorporated herein as part of this Order.
2. This Order shall be enforceable by the Department.
3. Unless expressly stated otherwise in the Stipulation of the Department and Yellowstone Energy Limited Partnership, dated February 14, 2000, this Order does not in any way supercede or alter the provisions of the 1998 YELP Order (and the 1998 YELP Stipulation and exhibit and attachment adopted therein), and the 1998 YELP Order remains in full force and effect, as part of the Department's control plan for SO₂ emissions in the Billings/Laurel area.
4. Modifications of this Order shall only be by initiation of the Board or by petition to the Board and the issuance of a subsequent order revising this Order.

DATED this 17 day of March, 2000.

By:


JOE GERBASE
Chair

Board of Environmental Review

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