



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

AUG 16 2011

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joshua R. Radandt, President
Fred Radandt Sons
1800 Johnston Drive
Manitowoc, Wisconsin 54220

Re: In the Matter of: Fred Radandt Sons, Incorporated
Docket No. **CAA-05-2011-0047**

Dear Mr. Radandt:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Fred Radandt Sons, Inc., docket no. CAA-05-2011-0047. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on AUG 18 2011.

Pursuant to paragraph 71 of the CAFO, Fred Radandt Sons, Inc. must pay the civil penalty by August 31, 2011. Your check must display the case name, case docket number CAA-05-2011-0047 and the billing document number 2751103A046.

Please direct any question regarding this case to Sherry Estes (312)-886-7164.

Sincerely,

A handwritten signature in cursive script that reads "Sara Breneman".

Sara Breneman
Chief
Air Enforcement and Compliance Assurance Branch,
MI/WI

Enclosure

cc: William Baumann, WDNR
Richard Wulk, WDNR

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. # CAA-05-2011-0047
)	
F. Radandt Sons, Incorporated)	Proceeding to Assess a Civil Penalty
Manitowoc, Wisconsin)	Under Section 113(d) of the Clean Air Act
)	42 U.S.C. § 7413(d)
)	
<u>Respondent.</u>)	

FEDERAL RECEIVING CLERK
U.S. EPA REGION 5
11 AUG 18 PM 12:45

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency, Region 5.
3. Respondent is F. Radandt Sons, Incorporated (F. Radandt Sons), a corporation doing business in Wisconsin.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in the CAFO.
8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Pursuant to Section 110 of the Act, 42 U.S.C. § 7410, each State is responsible for submitting to EPA for approval an implementation plan which specifies how the State will achieve, maintain, and enforce all primary and secondary National Ambient Air Quality Standards (NAAQS) in the State.
10. Under Section 110(a) of the Act, each State Implementation Plan (SIP) must include a permit program to regulate the modification and construction of any stationary source of air pollution as necessary to assure that NAAQS are achieved. SIPs must include enforceable emission limitations, control measures, and schedules for compliance. Upon EPA's approval of a SIP, the plans become independently enforceable by the federal government, as stated under Section 113(a) of the Act, 42 U.S.C. § 7413(a).
11. On January 18, 1995, EPA approved Wisconsin Administrative Code NR 400, NR 406 and NR 407 as part of the federally enforceable SIP for Wisconsin. 60 Fed. Reg. 3538 (January 18, 1995). 40 C.F.R. §52.2570(c)(75) and (76).
12. NR 400.02 states that the definition of "stationary source" "has the meaning given in Section 144.30(23) of the Wisconsin Statutes."
13. Section 144.30 has been renumbered and is now Section 285.01(41) of the Wisconsin Statutes. Under Section 285.01(41), "stationary source" means "any facility,

building, structure or installation that directly or indirectly emits or may emit an air contaminant only from a fixed location. A stationary source includes an air contaminant source that is capable of being transported to a different location.”

14. Wisconsin SIP provision NR 400.02(55) states a “modification” means “any physical change in, or change in the method of operation of, a stationary source that increases the amount of emissions of an air contaminant or that results in the emission of an air contaminant not previously emitted. A modification does not include any changes identified in NR 406.04(4).”

15. The Wisconsin SIP construction permit requirement NR 406.03 states that no person may commence construction, reconstruction, replacement, relocation or modification of a stationary source unless the person has a construction permit for the source or unless the source is exempt from the requirement to obtain a permit under § 144.391(5) Wis. Stats. (now re-numbered as § 285.60(1)(a) Wis. Stats.), or under this chapter. A stationary source, as defined by §285.01(41) Wis. Stats., includes an air contaminant source that is capable of being transported to a different location.

16. NR 406.04(2) states “no construction permit is required prior to commencing construction, reconstruction, replacement, relocation or modification of a direct source if all of the following conditions are met: . . . (c) The maximum theoretical emissions from the source for particulate matter, nitrogen oxides or volatile organic compounds do not exceed 5.7 pounds per hour for each air contaminant.”

17. The Wisconsin SIP operating permit requirement NR 407.01 states that chapter NR 407 “applies to all direct stationary sources which are required under s§ 144.391(6) Wis. Stats. (now §285.60(1)(b)), to obtain an operation permit.”

18. Section 285.60 of the Wisconsin statutes states that “no person may operate a new or modified source unless the person has an operation permit” from the Wisconsin Department of Natural Resources (WDNR). The exemptions to that requirement are not applicable here.

19. NR 407.03(2)(b) states “no operation permit is required for a direct source if the source is not a part 70 source and: (b) the maximum theoretical emissions for particulate matter, nitrogen oxides or organic compounds do not exceed 5.7 pounds per hour for each air contaminant.”

20. NR 400.02(70) defines “portable source” as “any facility, installation, operation or equipment which may directly result in the emission of any air contaminant only while at a fixed location but is capable of being transported to a different location. (e.g., portable asphalt plant, portable package boiler, portable air curtain destructor, etc.). As a type of direct stationary source, a modified portable source or a portable source which has never received a plan approval or air pollution control permit is subject to the requirements of chs. NR 406, 407, and 408.”

21. NR 407.09 states that all operation permits shall contain compliance testing, monitoring, reporting and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit.

22. 40 C.F.R. Part 60, the New Source Performance Standards (NSPS), set forth general regulations in Subpart A, §§ 60.1 to 60.19, which are applicable across the various industry groups subject to Part 60. Additional regulations specific to Nonmetallic Mineral Processing Plants are set forth in Subpart OOO.

23. EPA promulgated NSPS Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants (Subpart OOO), on August 1, 1985, 51 Fed.Reg. 31337, amended at

54 Fed. Reg. 6680 (February 14, 1989), and further amended at 74 Fed. Reg. 19309 (April 28, 2009).

24. A “stationary source” under the NSPS means “any building, structure, facility, or installation which emits or may emit any air pollutant.” 40 C.F.R. § 60.2.

25. An “affected facility” under the NSPS means, “with reference to a stationary source, any apparatus to which a standard is applicable.” 40 C.F.R. § 60.2.

26. Subpart OOO applies to the following affected facilities, which commenced construction, reconstruction, or modification after August 31, 1983, in fixed or portable nonmetallic mineral processing plants: “each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station.” 40 C.F.R. § 60.670.

27. An “owner or operator” under the NSPS means “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.

28. Until April 28, 2009, the NSPS, at 40 C.F.R. § 60.7(a)(1), and 40 C.F.R. § 60.670(f), required owners or operators subject to the Subpart OOO standards to furnish, to the Administrator, written notification of the date construction of an affected facility is commenced, postmarked no later than 30 days after such date.

29. As of April 28, 2009, the Subpart OOO standards waived this general notification requirement set forth under 40 C.F.R. § 60.7(a)(1) for facilities covered by the Subpart. 74 Fed. Reg. 19309 (April 28, 2009).

30. The NSPS, at 40 C.F.R. § 60.7(a)(3) and at 40 C.F.R. § 60.676(i), together require owners or operators subject to the NSPS to furnish to the Administrator a written notification of

the actual date of initial startup of an affected facility, postmarked within 15 days after such date. 40 C.F.R. § 60.676(i)(2) states that for portable aggregate processing plants, the notification shall include both the home office and the current address or location of the portable plant.

31. The NSPS, at 40 C.F.R. § 60.8(a) and § 60.672, require that within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not more than 180 days after initial startup of the facility, the owner or operator of the facility shall conduct performance test(s) and furnish the Administrator a written report of the results of the performance test(s).

32. Under 40 C.F.R. § 60.4 and 40 C.F.R. § 60.676(k), the written notifications described in Paragraphs 28, 30 and 31 above are to be submitted to WDNR.

33. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

34. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations for the Q-Pit

35. At all times relevant to this Notice, F. Radandt Sons was the owner and/or operator of a portable nonmetallic mineral processing plant located in Manitowoc, Wisconsin, the "Q-Pit". F. Radandt Sons' home office is also located in Manitowoc, Wisconsin.

36. F. Radandt Sons did not obtain construction and operation permits required for the Q-Pit by the federally enforceable Wisconsin SIP before beginning construction and operation of its stationary sources located at its nonmetallic mineral processing plant.

37. Each of the stationary sources at F. Radandt Sons' portable nonmetallic mineral processing plant emits or may emit particulate matter.

38. Each of the stationary sources at F. Radandt Sons' portable nonmetallic mineral processing plant is subject to the construction permitting requirements set forth in Wisconsin Administrative Code NR 406, incorporated into the Wisconsin SIP at 60 Fed. Reg. 3538.

39. Each of the stationary sources at F. Radandt Sons' portable nonmetallic mineral processing plant is also subject to the operation permit requirements set forth in Wisconsin Administrative Code NR 407, incorporated into the Wisconsin SIP at 60 Fed. Reg. 3538.

40. F. Radandt Sons had fifteen stationary sources in operation when the company was issued an after-the-fact construction permit by WDNR on February 2, 2009, which the company had applied for on December 21, 2006.

41. F. Radandt Sons' operations prior to the February 2, 2009, construction and operation permits' approval date were in violation of NR 406, NR 407, and the Wisconsin SIP.

42. Each of F. Radandt Sons, Inc.'s failures to obtain a construction permit for each separate piece of equipment (stationary source) is a separate violation of the Wisconsin SIP. Each of F. Radandt Sons' failures to obtain an operation permit for each separate piece of equipment is an additional separate violation of the Wisconsin SIP.

43. The sources listed below were in violation of NR 406 and NR 407 and the Wisconsin SIP because they were constructed and in operation before receiving the necessary

construction and operation permits. The violations began on installation date listed below and lasted until WDNR issued an after-the fact construction permit on February 2, 2009.

- a. 1000 Ft Conveyor, Serial No. 1, Installed 1985
- b. Log Washer Serial No. 11258, Installed 1985
- c. Sand Stat. Conveyor, Serial No. 7, Installed 1985
- d. 3/8-1/2 Conveyor Serial No. 9, Installed 1985
- e. 1000 Ft Conveyor, Serial No. 2, Installed 1989
- f. New AC Screen, Serial No. C54083, Installed 1989
- g. Small Cross Conveyor, Serial No. 4, Installed 1989
- h. Cone Feed Conveyor, Serial No. 5, Installed 1989
- i. Cone Disch. Conveyor, Serial No. 6, Installed 1989
- j. Primary Crusher, Serial No. C54087, Installed 1995
- k. Newest AC Screen, Serial No. 26A769, Installed 2000
- l. Sand Stacker Conveyor, Serial No. 8, Installed 2000
- m. 1 ½ Station. Conveyor, Serial No. 12, Installed 2000
- n. 1 ½ Station. Conveyor, Serial No. 13, Installed 2000
- o. Secondary Crusher, Serial No. 41180, Installed 2000

44. F. Radandt Sons' plant is subject to the requirements at 40 C.F.R. § 60.7(a)(1) and (3), § 60.8(a), and 40 C.F.R. Part 60, Subpart OOO, because affected facilities at the plant were modified or constructed and began operation after August 31, 1983. F. Radandt Sons had fifteen sources of emissions in operation subject to 40 C.F.R. Part 60, Subpart OOO, on December 21, 2006.

45. F. Radandt Sons violated the NSPS at 40 C.F.R. § 60.7(a)(1) and 40 C.F.R. § 60.676(a) and (e), because the company did not provide WDNR a notification of the date of construction of the affected facilities at the plant, listed in Paragraph 43, prior to the after-the-fact construction permit application submitted to WDNR on December 21, 2006. Each failure to notify WDNR of the date of construction of an affected facility is a separate violation of 40 C.F.R. § 60.7(a)(1) and 40 C.F.R. § 60.676(a) and (e).

46. F. Radandt Sons violated the NSPS at 40 C.F.R. § 60.7(a)(3) and 40 C.F.R. § 60.676(i) because the company did not provide WDNR a notification of the date of initial startup of the affected facilities at the plant, listed in Paragraph 43, prior to the after-the-fact construction permit application submitted to WDNR on December 21, 2006. Each failure to notify WDNR of the date of initial startup of an affected facility is a separate violation of 40 C.F.R. § 60.7(a)(3) and 40 C.F.R. § 60.676(i).

47. F. Radandt Sons violated the NSPS at 40 C.F.R. § 60.8(a) because the company did not conduct performance tests on the affected facilities at the plant, listed in Paragraph 43 above, within 180 days of the initial startup. Each failure to conduct a performance test of the fifteen affected facilities listed above in Paragraph 43 is a separate violation of 40 C.F.R. § 60.8(a). The violation began on the installation dated listed above and lasted until initial compliance testing occurred on August 23, 2007.

48. F. Radandt Sons was notified of these violations in a Notice of Violation/Finding of Violation (NOV/FOV) issued by EPA on September 11, 2009.

Factual Allegations and Alleged Violations for the Shoto Quarry

49. Beginning in 1998 and continuing to the present, Radandt was the owner and/or operator of a ledge rock quarry and portable nonmetallic mineral processing plant, the Shoto Quarry, located in Two Rivers, Wisconsin.

50. Radandt did not obtain construction and operation permits for the Shoto Quarry required by the federally enforceable Wisconsin SIP before beginning construction and operation of its air contaminant sources located at its Two Rivers, Wisconsin nonmetallic mineral processing plant and ledge rock quarry.

51. On October 22, 2009, pursuant to the “Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations” (Audit Policy), Radandt disclosed that a primary crusher, secondary crusher and a 450 horsepower diesel generator had been in operation at its Two Rivers, Wisconsin facility at the time of the self disclosure. The primary and secondary crushers were constructed or modified in 2007 and 2002, respectively, and the 450 horsepower diesel generator was installed in 1998.

52. In operation at the Shoto Quarry, the primary and secondary crusher emit or may emit particulate matter, and the 450 horsepower diesel generator emits or may emit nitrogen oxides. Both particulate matter and nitrogen oxides are air contaminants.

53. Radandt’s October 2009 self-disclosure stated that the calculated potential emissions from the 450 horse power diesel generator exceeded the thresholds set by NR 406.04(2) and NR 407.03(2)(b) of the Wisconsin SIP.

54. Radandt’s portable nonmetallic mineral processing plant and ledge rock quarry are subject to the construction permitting requirements set forth in Wisconsin Administrative Code NR 406, incorporated into the Wisconsin SIP at 60 Fed. Reg. 3538.

55. Radandt’s portable nonmetallic mineral processing plant and ledge rock quarry is also subject to the operation permit requirements set forth in Wisconsin Administrative Code NR 407, incorporated into the Wisconsin SIP at 60 Fed. Reg. 3538.

56. Radandt did not meet all conditions of the EPA Audit Policy for its violations under the Act because the disclosure did not meet the “prompt disclosure” requirements of the Audit Policy. On September 11, 2009, another Radandt facility, the Q-Pit, received an NOV/FOV that set forth the same violations of the Wisconsin SIP and NSPS Subpart OOO as those set forth in the self-disclosure for the Shoto Quarry more than one month later.

57. However, the Q-Pit facility had been inspected by WDNR inspector James Crawford in 2007, and he told Radandt during that inspection that the company needed to apply for construction and operation permits for the Q-Pit facility, and that the facility was subject to NSPS Subpart OOO. This was documented in his inspection report of September 10, 2007, a copy of which was sent to Joshua Radandt. The Q-Pit was then issued a letter of violation by the State of Wisconsin for permit and NSPS Subpart OOO violations on November 7, 2008.

58. At the Shoto Quarry, Radandt had comparable violations to those identified by WDNR in 2007, but waited until EPA became involved at the Q-Pit in 2009 to do so. Because of this, Region 5 determined that Radandt's self-disclosure in October 2009 for the Shoto Quarry did not qualify for Audit Policy treatment.

59. Radandt received an after-the-fact construction permit for the Shoto Quarry that included the ability to operate for 18 months on December 17, 2009, and an operation permit on June 8, 2010.

60. Each of Radandt's failures to obtain an operation permit for each separate piece of equipment is an additional separate violation of the Wisconsin SIP.

61. The modification listed below was in violation of NR 406 of the Wisconsin SIP because it was constructed and in operation before receiving the necessary construction permit. The violations began on the installation date specified below and lasted until WDNR issued an after-the fact construction permit on December 17, 2009.

a. Primary crusher, installed in 2007

62. The modifications listed below were in violation of NR 407 of the Wisconsin SIP because they were constructed and in operation before receiving the necessary operation permits.

The violations began on the installation date specified below and lasted until WDNR issued an after-the fact construction permit on December 17, 2009.

- a. 450 horsepower diesel engine, installed 1998
- b. Secondary crusher, installed in 2002
- c. Primary crusher, installed in 2007

63. Radandt's operations at the Shoto Quarry facility prior to December 17, 2009 are in violation of NR 406 and NR 407 of the Wisconsin SIP.

64. Radandt's Shoto Quarry facility is subject to the requirements at 40 C.F.R. § 60.7(a)(1) and (3), § 60.8(a), and 40 C.F.R. Part 60, Subpart OOO, because affected facilities at the plant were modified or constructed and began operation after August 31, 1983.

65. Radandt violated the NSPS at 40 C.F.R. § 60.7(a)(1) and 40 C.F.R. § 60.676(a) and (e), because the company did not provide WDNR a notification of the date of construction of the affected facilities at the plant, listed as items b and c in Paragraph 62, prior to the self-disclosure provided on October 22, 2009. Each failure to notify WDNR of the date of construction of an affected facility, prior to April 28, 2009, is a separate violation of 40 C.F.R. § 60.7(a)(1) and 40 C.F.R. §60.676(a) and (e).

66. Radandt violated the NSPS at 40 C.F.R. § 60.7(a)(3) and 40 C.F.R. § 60.676(i) because the company did not provide WDNR a notification of the date of initial startup of the affected facilities at the plant, listed as items b and c of Paragraph 62, prior to the self-disclosure provided on October 22, 2009. Each failure to notify WDNR of the date of initial startup of an affected facility is a separate violation of 40 C.F.R. § 60.7(a)(3) and 40 C.F.R. §60.676(i).

67. Radandt's Shoto Quarry facility's initial compliance testing was conducted on May 17, 2010. Performance testing did not occur within 180 days of initial start-up after the affected facilities were constructed or modified.

68. Radandt's violated the NSPS at 40 C.F.R. § 60.8(a) because the company did not conduct performance tests on the affected facilities at the plant, listed as items b and c in Paragraph 63 above, within 180 days of the initial startup. Each failure to conduct a performance test of the affected facilities listed as items b and c of Paragraph 62 is a separate violation of 40 C.F.R. § 60.8(a). The violation began on the installation dated listed above until initial compliance testing was conducted on May 17, 2010.

69. F. Radandt Sons was notified of these violations in an NOV/FOV issued by EPA on September 27, 2010.

Civil Penalty

70. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case and cooperation, Complainant has determined that an appropriate civil penalty to settle this action is \$120,000.

71. By August 31, 2011, Respondent must pay a \$120,000 civil penalty, by sending a cashier's or certified check payable to the "Treasurer, United States of America," via U.S. Postal Service mail to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

or by express mail to:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must note the case name, docket number of this CAFO, and the billing document number.

72. A transmittal letter stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must send a copy 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, IL 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, IL 60604

Sherry L. Estes, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

74. If Respondent does not pay timely the civil penalty, 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.

75. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must 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.

General Provisions

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

77. The CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

78. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 76, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

79. Respondent certifies that it is complying fully with 40 C.F.R. §§ 60.670 through 60.676, and NR 406, and NR 407 of the Wisconsin SIP.

80. This CAFO constitutes an "enforcement response" as that term is used in EPA's *Clean Air Act Stationary Source Civil Penalty Policy* to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

81. The terms of this CAFO bind Respondent, its successors, and assigns.

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

83. Each party agrees to bear its own costs and attorneys' fees in this action.

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

IN THE MATTER OF:

F. Radandt Sons, Incorporated; Manitowoc, Wisconsin

F. Radandt Sons, Incorporated, Respondent

8-4-11

Date



Joshua R. Radandt

President

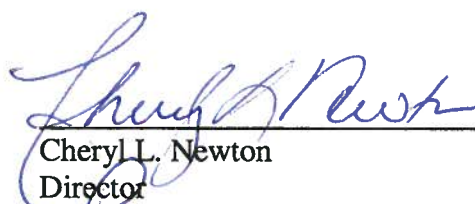
F. Radandt Sons, Incorporated

IN THE MATTER OF:

F. Radandt Sons, Incorporated; Manitowoc, Wisconsin

United States Environmental Protection Agency, Complainant

8/15/11
Date


Cheryl L. Newton
Director
Air and Radiation Division
U.S. Environmental Protection Agency
Region 5

CONSENT AGREEMENT AND FINAL ORDER

In the Matter of:

F. Radandt Sons, Incorporated

Docket No. CAA-05-2011-0047

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

8-16-11

Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency, Region 5

U.S. ENVIRONMENTAL
PROTECTION AGENCY

OFFICE OF REGIONAL
COUNSEL

OFFICE OF REGIONAL
COUNSEL

Consent Agreement and Final Order
In the Matter of: Fred Radandt Sons, Incorporated
Docket No. CAA-05-2011-0047

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA 05 2011 0047 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed a second original copy by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Joshua R. Radandt, President
Fred Radandt Sons, Incorporated
1800 Johnston Drive
Manitowoc, Wisconsin 54220

I certify that I mailed copies of the CAFO by first-class mail, addressed as follows:

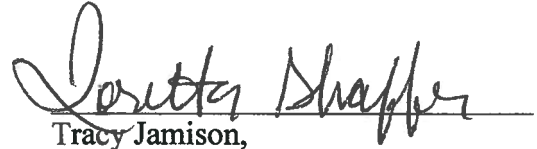
William Baumann, Chief, Compliance and Enforcement Section
Wisconsin Department of Natural Resources
Bureau of Air Management
101 South Webster Street
P.O. Box 7921 (AM/7)
Madison, Wisconsin 53702

Richard Wulk, Supervisor - North Team
Northeast Region
Wisconsin Department of Natural Resources
Bureau of Air Management
2984 Shawano Avenue
Green Bay Wisconsin 54313-6727

I also certify that I delivered a copy of the CAFO by intra-office mail, addressed as follows:

Marcy Toney
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard/Mail Code C-14J
Chicago, Illinois 60604

On the 18 day of August 2011.



Tracy Jamison,
Office Automation Assistant
AECAS (PAS)

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7670 0214

2011 AUG 18 PM 12:45
GENERAL MAILING CLERK
U.S. EPA REGION 5