



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:
AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Anthony Sirek, Chair
Barron County Solid Waste Management
Barron County Waste to Energy Facility
575 10 ½ Avenue
P.O Box 68
Almena, Wisconsin 54805

RECEIVED
DEC 31 2008

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY.

Dear Mr. Sirek:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Barron County Waste to Energy Facility, CAA Docket No. CAA-05-2008-0033. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on DEC 31, 2008.

Pursuant to paragraph 62 of the CAFO, Barron County Waste to Energy Facility, must pay the civil penalty within 30 days of Dec 31, 2008. Your check must display the case docket number, CAA-05-2008-0033, and the billing document number, 2750903A008.

Please direct any questions regarding this case to Padmavati Bending, Associate Regional Counsel, (312) 886-6041.

Sincerely,

Bonnie Bush, Chief
Air Enforcement and Compliance Assurance
Section (MI/WI)

Enclosure:

cc: William Baumann, Chief
Wisconsin Department of Natural Resources

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

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In the Matter of:)
)
Barron County Waste to Energy Facility)
Almena, Wisconsin,)
)
Respondent.)
_____)

Docket No. CAA-05-2008-0033
Proceeding to Assess a Civil Penalty
Under Section 113(d) of the Clean Air
Act, 42 U.S.C. § 7413(d)

REGIONAL HEARING CLERK
ENVIRONMENTAL
PROTECTION AGENCY

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5, brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On August 22, 2008, EPA filed the Complaint in this action against Respondent, Barron County Waste to Energy Facility. The Complaint alleges that Respondent violated Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. Part 60, Subpart JJJ, at §§ 62.15000 – 62.15410, at its facility in Almena, Wisconsin.

3. Respondent filed an Answer admitting certain allegations, neither admitting nor denying some allegations, and raising certain affirmative defenses. Respondent requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

Stipulations

4. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual and legal allegations in the Complaint other than those it admitted in its Answer.

5. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

6. Respondent certifies that it is complying fully with 40 C.F.R. §70.7, the terms and conditions of its Title V permit, and Subpart JJJ.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

8. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

9. In consideration of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), including the facts of this case, the nature of the violations, and the cooperation demonstrated by Respondent, Complainant agrees to mitigate the proposed penalty of \$42,553 to \$17,500.

10. Within 30 days after the effective date of this CAFO, Respondent must pay the \$17,500 civil penalty by one of the following options:

a. Sending via U.S. Postal Service mail a cashier's or certified check payable to the "Treasurer, United States of America," to:

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

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

b. Sending via a carrier that will not deliver P.O. Boxes (*e.g.* express carrier) a cashier's or certified check payable to the "Treasurer, United States of America," to:

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

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

11. When paying by check, a transmittal letter stating the 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

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

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

13. 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.

14. 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

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

16. This 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.

17. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

18. 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).

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

20. 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.

21. Each party agrees to bear its own cost and attorneys' fees in this action.

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

Barron County Waste to Energy Facility, Respondent

12/29/08
Date

Ronald J. Novotny
Ronald J. Novotny, Chair
Barron County Solid Waste Management Board
Barron County Waste to Energy Facility

**United States Environmental Protection Agency,
Complainant**

12/29/08
Date

Cheryl Newton
Cheryl Newton, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

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U.S. ENVIRONMENTAL
PROTECTION AGENCY**

CONSENT AGREEMENT AND FINAL ORDER
Barron County Waste to Energy Facility.
CAA-05-2008-0033

Final Order

This Consent Agreement and Final Order, as agreed to by 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.

12/30/08
Date



for Lynn Buhl
Regional Administrator
United States Environmental Protection Agency
Region 5

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**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**