

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

In the Matter of)
)
Barton Keller Saw Mill) Docket No. CAA-07-2005-0205
Independence, Kansas)
)
Respondent)

CONSENT AGREEMENT AND FINAL ORDER

This proceeding for the assessment of a civil penalty was initiated on or about March 31, 2005, pursuant to Section 113(d) of the Clean Air Act, 42, U.S.C. § 7413(d), when the United States Environmental Protection Agency, Region VII (Complainant or EPA0 issued to Barton Keller Saw Mill, Independence, Kansas (Respondent) a Complaint and Notice of Opportunity for Hearing.

The Complaint charged Respondent with violations of Section 111(d) of the Clean Air Act, U.S.C. § 7411(d) and Section 129 of the Clean Air Act, 42 U.S.C. § 7429, and specifically the Plan Requirements for Commercial and Industrial Solid Waste Incinerators (CISWI), 40 C.F.R. Part 62, Subpart III. The Complaint proposed a penalty of \$ 50,877.

The parties entered into settlement negotiations to resolve the violations alleged in the Complaint; this Consent Agreement and Final Order resolves the violations alleged in the Complaint.

CONSENT AGREEMENT

1. Respondent admits the jurisdictional allegations of the Complaint, and neither admits nor denies the factual allegations of the Complaint.

2. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law as set forth in the complaint.

3. Respondent and Complainant agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

4. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty as set forth below.

5. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of its knowledge, Respondent's facility is presently in compliance with all the requirements for Commercial and Industrial Solid Waste Incinerators, 40 C.F.R. Part 62, Subpart III.

FINAL ORDER

Pursuant to the provisions of the Clean Air Act, 42 U.S.C. § 7401, and based upon the information set forth in this Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty of Fifteen Thousand Dollars (\$15,000). The civil penalty will be paid in twelve quarterly payments of One Thousand Two Hundred and Sixty Nine Dollars and Thirty- Six Cents (\$1,269.36), which includes 1% accrued interest, over a period of thirty-six months. The first payment must be received at the address below on or before 30 days after the effective date of this Final Order. The Respondent shall reference the Docket Number CAA-07-2005-0205 on each payment. Payment shall be by cashier's or certified check, made payable to the "United States Treasury" and remitted to:

EPA- Region VII
c/o Mellon Bank
P.O. Box 371099M
Pittsburgh, Pennsylvania 15251.

2. A copy of the check should be forwarded to:

Regional Hearing Clerk
Office of Regional Counsel
United States Environmental Protection Agency
901 North Fifth Street
Kansas City, Kansas 66101

and

Anne E. Rauch
Office of Regional Counsel
United States Environmental Protection Agency
901 North Fifth Street
Kansas City, Kansas 66101.

3. Respondent's failure to pay any portion of the civil penalty assessed herein in accordance with the provisions of this Order shall result in commencement of a civil action in Federal District Court to recover the total penalty proposed in the Complaint, together with interest thereon at the applicable statutory rate.

4. Respondent and Complainant shall bear their won costs and attorneys' fees incurred as a result of this matter.

COMPLAINANT:
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By Anne E. Rauch
ANNE E. RAUCH
Senior Assistant Regional Counsel

Date 7/25/2005

RESPONDENT:
BARTON KELLER SAW MILL
INDEPENDENCE, KANSAS

By Barton Keller

Title member

Date 7-18-2005

*In the Matter of
Barton Keller Saw Mill*

IT IS SO ORDERED. This Final Order shall become effective immediately.

Karina Borromeo

Karina Borromeo
Regional Judicial Officer

Date July 26, 2005

IN THE MATTER OF Barton-Keller Saw Mill, Respondent
Docket No. CAA-07-2005-0205

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Anne E. Rauch
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Robert J. Lambrechts, Esq.
Lathrop & Gage, LC
2345 Grand Blvd., Suite 2800
Kansas City, Missouri 64108-2684

and


Copy by Facsimile and
First Class Pouch Mail to:

Honorable Susan L. Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW/Mail Code 1900L
Washington, D.C. 20460

and

Honorable Carl C. Charneski
Administrative Law Judge
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW/Mail Code 1900L
Washington, D.C. 20460

Dated: 7/27/05


Kathy Robinson
Regional Hearing Clerk