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

DEC 17 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steve Pittman, General Manager
North Manchester Ethanol, LLC
D/b/a/ POET Biorefining - North Manchester
868 East 800 North
North Manchester, Indiana 46962

Dear Mr. Pittman:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves North Manchester Ethanol, LLC d/b/a POET Biorefining- North Manchester (POET) CAA Docket No. **CAA-05-2016-0008**. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on December 17, 2015.

Pursuant to paragraph 35 of the CAFO, POET must pay $69,400 civil penalty within 30 days of the date CAFO was filed, due - January 19, 2016. Your electronic funds transfer must display the case name North Manchester Ethanol, LLC, the docket number **CAA-05-2016-0008**, and the billing document number N/A (FW).

Please direct any questions regarding this case to Cynthia A. King at (312) 886-6840.

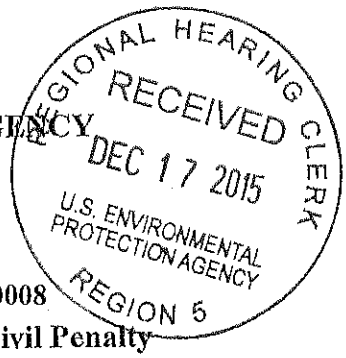
Sincerely,

Sarah Marshall

Sarah Marshall, Chief
Air Enforcement and compliance Assurance Branch

Enclosure

cc: Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Cynthia King/C-14J
Phil Perry, Branch Chief
Office of Air Quality/Compliance & Enforcement Branch
Indiana Department of Environmental Management



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:	)	**Docket No. CAA-05-2016-0008**
	)	
North Manchester Ethanol, LLC	)	**Proceeding to Assess a Civil Penalty**
North Manchester, Indiana	)	**Under Section 113(d) of the Clean Air Act,**
	)	**42 U.S.C. § 7413(d)**
	)	
Respondent.	)	
	)	

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 CAA), 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 (EPA), Region 5.

3. Respondent is North Manchester Ethanol, LLC, d/b/a/ POET Biorefining – North Manchester (POET-North Manchester), a limited liability company doing business in Indiana.

4. Under 40 C.F.R. § 22.13(b), 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).

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 the assessment of the civil penalty specified in this CAFO and to the terms of this 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 this 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. Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1), requires each state to develop and submit to EPA an operating permit program (Title V Permit Program). On December 4, 2001, 66 Fed. Reg. 62969, EPA granted Indiana final approval of its Title V Permit Program, effective November 30, 2001.

10. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b), provide that, after the effective date of any permit program approved or promulgated under Title V of the Act, no source subject to Title V may operate except in compliance with a Title V permit.

11. On February 20, 2008, 73 Fed. Reg. 9201-9203, EPA approved 326 IAC 8-5-6, fuel grade ethanol production at dry mills, to its volatile organic compounds (VOC) rules as a revision to the Indiana State Implementation Plan (SIP) at 40 C.F.R. § 52.770(c)(182).

12. 326 IAC 8-5-6(c)(1) states that the owner or operator of a fuel grade dry mill ethanol production plant shall install and operate a thermal oxidizer with an overall control efficiency of not less than 98% percent or resulting in a VOC concentration of not more than 10 parts per million (ppm).

13. 326 IAC 8-5-6(e)(1) provides that the owner or operator of a fuel grade ethanol dry mill production plant that was constructed or modified after April 1, 2007, that installs and operates a thermal oxidizer as its VOC control device, shall measure the three (3) hour average

operating temperature of the oxidizer using a continuous temperature monitor. The 3-hour average temperature must be greater than or equal to the minimum operating temperature established during the plant's most recent compliance demonstration.

14. On August, 2012, the Indiana Department of Environmental Management (IDEM) issued Title V Operating Permit No. T169-31191-00068 to POET-North Manchester. On December 13, 2013, IDEM approved a significant permit modification to the Title V permit.

15. Part D.2.2.(c) of the Title V Permit states that the overall efficiency for the scrubber (including the capture efficiency and the destruction efficiency) shall be at least 98%, or the VOC outlet concentration shall not exceed 20 ppmv.

16. Part D.2.2(e) of the Title V Permit states that the overall efficiency for the regenerative thermal oxidizer CE009 controlling DDGS dryers (EU025 and EU026) (including the capture efficiency and the destruction efficiency) shall be at least 98%, or the VOC outlet concentration shall not exceed 10 ppmv.

17. Part D.2.1(c) of the Title V permit limits VOC emissions when RTO CE009 is not operating to 81.43 lbs/hour from scrubber CE008.

18. The Administrator of EPA (the Administrator) may assess a civil penalty of up to $32,500 per day of violation up to a total of $270,000 for violations that occurred after March 15, 2004 through January 12, 2009 and may assess a civil penalty of up to $37,500 per day of violation up to a total of $295,000 for violations that occurred after January 12, 2009 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

19. Section 113(d)(1), 42 U.S.C. § 7413(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 the Attorney General

of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

20. 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

21. POET-North Manchester owns and operates a fuel grade ethanol production dry mill facility at 868 East 800 North, North Manchester, Indiana (the facility).

22. POET-North Manchester is a "person" as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

23. On December 20, 2013, EPA issued a Section 114 Request for Information, 42 U.S.C. § 7414, to POET-North Manchester. On February 27, and March 27, 2014, POET–North Manchester responded to EPA's Request for Information.

24. The information provided by POET-North Manchester showed that from August 20 through August 22, 2013, POET– North Manchester performed several stack tests on its RTO CE009 and scrubber CE008.

25. The August 20, 2013 stack test results showed that at RTO CE009, the facility had an overall VOC control efficiency of 96.38%, and a VOC concentration of 13.7ppmv.

26. The August 20, 2013 test results showed that at RTO CE009, the facility had an overall VOC control efficiency of 97.42%, and a VOC concentration of 10.80 ppmv.

27. The August 21, 2013 test results showed that at RTO CE009, the facility had an overall VOC control efficiency of 97.58%, and a VOC concentration of 12.70 ppmv.

28. The August 22, 2013 test results showed that at Scrubber CE008, the facility had an overall VOC control efficiency of 93.53%, and a VOC concentration of 759.90 ppmv. The August 22, 2013 test results also showed that at Scrubber CE008, the facility emitted 110.39 lbs VOC/hr.

29. POET-North Manchester operated RTO CE009 for 18 days below the required 3-hour average temperature.

30. On March 31, 2015, EPA issued a Notice of Violation and Finding of Violation to POET-North Manchester.

Alleged Violations

31. The August 20, 2013, August 21, 2013, and August 22, 2013, stack test results demonstrate that at RTO CE009, the facility did not achieve a VOC control efficiency of 98%, as required by Title V Permit No. T169-31191-00068, Emission Limit D.2.2, which constitutes violation of the Indiana SIP, Section 502(a) of the Act, 42 U.S.C. § 7661(a), and 40 C.F.R. § 70.7(b).

32. The August 22, 2013, stack test results demonstrate that at Scrubber CE008, the facility emitted VOCs in excess of the permitted limit of 81.43 lbs/hr as required by Title V Permit No. T169-31191-00068, Emission Limit D.2.1(c)(2), which constitutes a violation of the Indiana SIP, Section 502(a) of the Act, 42 U.S.C. § 7661(a), and 40 C.F.R. § 70.7(b).

33. POET-North Manchester operated RTO CE009 for 18 days below the required 3-hour average temperature as specified in Title V Permit No. T169-31191-00068, Emission Limit of D.2.10(c), which constitutes a violation of the Indiana SIP, Section 502(a) of the Act, 42 U.S.C. § 7661(a), and 40 C.F.R. § 70.7(b).

Civil Penalty

34. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, Respondent's cooperation, and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is $69,400.

35. Within 30 days after the effective date of this CAFO, Respondent must pay a $69,400 civil penalty by electronic funds transfer, payable to "Treasurer, United States of America," and send to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Respondent's name, the docket number of this CAFO.

36. Respondent must send a notice of payment that states Respondent's name, the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Cynthia A. King (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

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

38. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

39. 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 pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. Under 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

40. This CAFO resolves Respondent's liability for federal civil penalties for the violations alleged in Paragraphs 21 through 29 of this CAFO, but only those alleged violations.

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

42. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 40, above,

compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

43. Respondent certifies that it is complying with the above-referenced provisions of its Title V Operating Permit No. T169-31191-00068

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

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

46. 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.

47. Each party agrees to bear its own costs and attorney's fees in this action.

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

49. Upon timely payment of the civil penalty set forth in Paragraph 35 of this CAFO, Respondent will have complied with this CAFO and will resolve the liabilities listed in Paragraph 40.

50. This CAFO shall become effective immediately upon filing with the Regional Hearing Clerk.

North Manchester Ethanol, LLC, Respondent

11/13/15
Date

Steve Pittman, General Manager
North Manchester Ethanol, LLC

United States Environmental Protection Agency, Complainant

12/2/15
Date

George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

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.

12-14-2015
Date

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

In the Matter of: POET Biorefining – North Manchester
Docket Number: **CAA-05-2016-0008**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on December 17, 2015, this day in the following manner to the addressees:

Copy by Certified Mail
Return-Receipt Requested:

Steve Pittman
General Manager
d/b/a POET Biorefining - North Manchester
868 East 800 North
North Manchester, Indiana 46962

Copy by E-mail to
Complainant:

Cynthia King
king.cynthia@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: December 17, 2015 L W Whitehead

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2640 7506