



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

November 4, 2020

VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

Richard Snyder
Fredrikson & Byron
rsnyder@fredlaw.com

Dear Mr. Snyder:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Cardinal FG Company docket no. CAA-05-2020-0026. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on November 4, 2020.

Pursuant to paragraph 10 of the CAFO, Cardinal must pay the civil penalty within 30 days of the filing date. Your electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to Josh Zaharoff, Associate Regional Counsel, (312) 886-4460.

Sincerely,

**BRIAN
DICKENS**

Digitally signed by BRIAN
DICKENS
Date: 2020.10.28
07:59:54 -05'00'

Brian Dickens, Chief
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/via electronic mail
Regional Hearing Clerk/via electronic mail
Josh Zaharoff/via electronic mail
Maria Hill/via electronic mail

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	Docket No. CAA-05-2020-
)	0026
Cardinal FG Company)	
Menomonie, Wisconsin,)	Proceeding to Assess a Civil
)	Penalty under Section
Respondent.)	113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
_____)	
)	

Consent Agreement and Final Order

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

2. On August 4, 2020, EPA filed the Complaint in this action against Respondent Cardinal FG Company. The Complaint alleges that Respondent violated Section 165(a) of the CAA and the federally-approved Wisconsin state implementation plan (SIP) at NR 405.07(1) and NR 405.08(3) at its facility in Menomonie, Wisconsin.

3. Respondent filed an Answer denying that it violated Section 165(a) of the CAA and NR 405.07(1) and NR 405.08(3) and requested a hearing under Section 113(d)(2) of the CAA, 42 U.S.C. § 7413(d)(2).

Stipulations

4. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual 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 Section 165(a) of the CAA and with the Wisconsin SIP at NR 405.07(1) and 405.08(3).

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 Respondent's cooperation and the facts of the case, Complainant agrees to mitigate the proposed penalty of \$385,535 to \$99,500.

10. Within 30 days after the effective date of this CAFO, Respondent must pay a \$99,500 civil penalty by electronic funds transfer, payable to "Treasurer, United States of America," and sent 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 and the docket number of this CAFO.

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

Attn: Compliance Tracker (ECA-18J)
Air Enforcement and Compliance Assurance Branch

Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Josh Zaharoff (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

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

13. 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.

14. 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 attorneys' 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. 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. 42 U.S.C. § 7413(d)(5).

General Provisions

15. Pursuant to 40 C.F.R. § 22.6, the parties consent to service of this CAFO by e-mail at the following addresses: zaharoff.josh@epa.gov (for Complainant) and rsnyder@fredlaw.com (for Respondent).

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

17. 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.

18. 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 16, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

19. 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).

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

21. 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.

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

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

Cardinal FG Company, Respondent

October 23, 2020
Date

Wayne McAtee
Wayne McAtee, Plant Manager
Cardinal FG Company (Menomonie)

United States Environmental Protection Agency, Complainant

Date

**MICHAEL
HARRIS**

Digitally signed by
MICHAEL HARRIS
Date: 2020.11.02
12:52:43 -06'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order
In the Matter of: Cardinal FG Company
Docket No. CAA-05-2020-0026**

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.

Date

ANN COYLE Digitally signed by ANN
COYLE
Date: 2020.11.03
13:54:16 -06'00'

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Cardinal FG Company
Docket Number: CAA-05-2020-0026

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number CAA-05-2020-0026, which was filed on November 4, 2020, in the following manner to the following addressees:

Copy by E-mail to Respondent: Richard Snyder
rsnyder@fredlaw.com

Copy by E-mail to Attorney for Complainant: Josh Zaharoff
Zaharoff.Josh@epa.gov

Dated: _____

LADAWN
WHITEHEAD

Digitally signed by LADAWN
WHITEHEAD
Date: 2020.11.04 10:30:20 -06'00'

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