



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

MAR 27 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:
(AE-17J)

Jim Moberg
Vice-President of Business Administration and Finance
Wisconsin Veneer and Plywood, Inc.
610 Railroad Street
P.O. Box 140
Mattoon, Wisconsin 54450

Re: In the Matter of: Wisconsin Veneer and Plywood, Inc.
Docket No. CAA-05-2008-0038

Dear Mr. Moberg:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves In the Matter of Wisconsin Veneer and Plywood, Inc., Docket No. CAA-05-2008-0038. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on MAR 26 2009.

Pursuant to paragraph 10 of the CAFO, Wisconsin Veneer and Plywood, Inc. must pay the civil penalty within 30 days of APR 27 2009. Your [check][electronic funds transfer] must display the case name, Case Docket No. CAA-05-2008-0038, and the Billing Document No. 2750903A015.

Please direct any questions regarding this case to Padmavati G. Bending, Associate Regional Counsel, 312-353-8917.

Sincerely yours,

Bonnie Bush
Air Enforcement and Compliance Assurance
Section MI/WI

Enclosure

cc: Padma Bending
Don Gallo

RECEIVED

MAR 26 2009

MAR 27 2009

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

| | | |
|------------------------------------|---|---------------------------------------|
| In the Matter of: |) | Docket No. CAA-05-2008-0038 |
| |) | |
| Wisconsin Veneer and Plywood, Inc. |) | Proceeding to Assess a Civil Penalty |
| Mattoon, Wisconsin, |) | Under Section 113(d) of the Clean Air |
| |) | Act, 42 U.S.C. § 7413(d) |
| Respondent. |) | |
| _____ |) | |

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 September 22, 2008, EPA filed the Complaint in this action against Respondent Wisconsin Veneer and Plywood, Inc. The Complaint alleges that Respondent violated Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. §70.7 at its facility in Mattoon, Wisconsin.

3. Respondent filed an Answer and 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 and the terms and conditions of its Title V permit.

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, the cooperation demonstrated by Respondent, Respondent's performance of a Supplemental Environmental Projects (SEP) during the pendency of this action, the economic impact of the penalty on Respondent's business, and other relevant factors, Complainant agrees to mitigate the proposed penalty of \$96,041 to \$5,000.

10. Within 30 days after the effective date of this CAFO, Respondent must pay the \$5,000 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 to 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.

c. Sending via electronic funds transfer payable to the “Treasurer, United States of America,” 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 the case name, the docket number of this CAFO, and the billing document number.

11. If 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, or any stipulated penalties due under Paragraph 29, below, 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.

Supplemental Environmental Project

15. At its Newberry, Michigan facility, Respondent has completed the installation of a closed loop dust handling system to help eliminate any potential fugitive dust from fine sawdust at this lumber company. This SEP was begun after the parties met to discuss the violations alleged in the Complaint. This project began in July 2008 and was completed in August 2008.

16. Respondent spent at least \$49,736 for the closed loop dust handling system at its Newberry, Michigan location.

17. Respondent certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

18. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

19. Respondent must submit a SEP completion report to EPA for the closed dust loop system discussed in Paragraph 15, above, within 30 days of entry of this CAFO. This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized cost of goods and services used to complete the SEP, documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual cost of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO; and
- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

20. Respondent must submit all notices and reports required by this CAFO by first class mail to:

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

21. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

22. Following receipt of the SEP completion report described in Paragraph 19, above, EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under Paragraph 24, below.

23. If EPA exercises option b, above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that EPA imposes in its decision. If Respondent does not complete the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under Paragraph 24, below.

24. If Respondent violates any requirement of this CAFO relating to the SEP,

Respondent must pay stipulated penalties to the United States as follows:

- a. If Respondent spent less than the amount set forth in Paragraph 16, above, Respondent must pay a stipulated penalty equal to the difference between the amount it spent on the SEP and the amount set forth in Paragraph 16.

25. EPA's determination of whether Respondent satisfactorily completed the SEP will bind Respondent.

26. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in Paragraph 10, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

27. Any public statement that Respondent makes referring to the SEP must include the following language, "Wisconsin Veneer and Plywood, Inc. undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Wisconsin Veneer and Plywood, Inc. for violations of its Title V permit and the Clean Air Act."

28. If an event occurs which causes or may cause a delay in completing the SEP as required by this CAFO:

- a. Respondent must notify EPA in writing within 10 calendar days after learning of an event which caused or may cause a delay in completing the SEP. The notice must describe the anticipated length of the delay, its cause(s), Respondent's past and proposed actions to prevent or minimize the delay, and a schedule to carry out those actions. Respondent must take all reasonable actions to avoid or minimize any delay. If Respondent fails to notify EPA according to this paragraph, Respondent will not receive an extension of time to complete the SEP.
- b. If the parties agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, the parties will stipulate to an extension of time no longer than the period of delay.
- c. If EPA does not agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, EPA will notify Respondent in writing of its decision and any delays in completing the SEP will

not be excused.

- d. Respondent has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEP. Increased cost for completing the SEP will not be a basis for an extension of time under subparagraph b, above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

29. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

General Provisions

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

31. 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.

32. 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 30, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

33. 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).

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

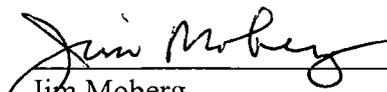
35. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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

Wisconsin Veneer and Plywood, Inc., Respondent

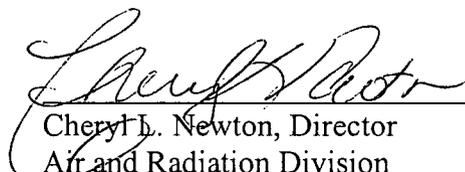
3-17-09
Date



Jim Moberg
Vice-President of Business Administration
and Finance
Wisconsin Veneer and Plywood, Inc.

United States Environmental Protection Agency, Complainant

3/25/09
Date



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

CONSENT AGREEMENT AND FINAL ORDER
Wisconsin Veneer and Plywood, Inc.
CAA-05-2008-0038

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MAR 26 2009

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U.S. ENVIRONMENTAL
PROTECTION AGENCY

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.

3/26/09
Date

Walter W. Kavalich
Bharat Mathur
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

In the Matter of:
Wisconsin Veneer and Plywood, Inc.
Docket No. CAA-05-2008-0038

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MAR 26 2009

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PROTECTION AGENCY

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order in this matter with the Regional Hearing Clerk (E-19J), United States Environmental Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that mailed by Certified Mail, Receipt No. [], the second original to Respondent, addressed as follows:

Jim Moberg
Vice-President of Business Administration and Finance
Wisconsin Veneer and Plywood, Inc.
610 Railroad Street
P.O. Box 140
Mattoon, Wisconsin 54414

and that I mailed a correct copy by first class, United States mail, addressed as follows:

Honorable Judge Biro
United States Environmental Protection Agency
Office of Administrative Law Judges
Mailcode 1900L/Ariel Rios Building
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Bill Yantawood, Supervisor
Southeast District Office
Wisconsin Department of Natural Resources
2300 North Dr. Martin Luther King Jr. Drive
P.O. Box 12436
Milwaukee, Wisconsin 53212

On this 26 day of March, 2009.



Tracy Jamison,
Office Automation Clerk
Air Enforcement and Compliance Assurance, MI/WI Section

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 1455 1423