

REC-10  
'99 SEP 24 22:13

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

|                           |   |                             |              |
|---------------------------|---|-----------------------------|--------------|
| IN THE MATTER OF:         | ) | Docket No.                  | CAA-5-99-040 |
|                           | ) |                             |              |
| Calumet Steel Company     | ) | Proceeding to Assess        |              |
| Chicago Heights, Illinois | ) | Administrative Penalties    |              |
|                           | ) | under Section 113(d) of the |              |
|                           | ) | Clean Air Act,              |              |
|                           | ) | 42 U.S.C. § 7413(d)         |              |
| Respondent.               | ) |                             |              |
| _____                     | ) |                             |              |

CONSENT AGREEMENT

WHEREAS, Complainant, the Director, Air and Radiation Division, United States Environmental Protection Agency, Region 5 ("U.S. EPA"), and Respondent, Calumet Steel Company ("Respondent"), the Parties herein, wishing to settle all matters pertaining to this case and having consented to the entry of this Consent Agreement and Final Order ("CAFO"); NOW, THEREFORE, before the taking of any testimony, without an adjudication of any issues of law or fact herein, the Parties consent to the entry of, and agree to comply with the terms of, this CAFO.

I. Preliminary Statement

1. U.S. EPA instituted this civil administrative proceeding for the assessment of a civil penalty pursuant to Section 113(d) of the Clean Air Act ("CAA" or "Act"), 42 U.S.C. § 7413(d), by issuing an Administrative Complaint and Notice of Proposed Order Assessing a Penalty ("Complaint") against Respondent.

2. Respondent in this proceeding is Calumet Steel Company (Calumet), a Delaware corporation, registered to do business in the State of Illinois, with a place of business located at 317 East 11<sup>th</sup> Street, Chicago Heights, Illinois.

3. The Complaint, which is fully incorporated herein by reference, charged Respondent with violations of the Illinois State Implementation Plan (SIP) for particulate matter from March 7, 1999 to April 24, 1999. 35 Illinois Administrative Code (IAC) § 212.322.

4. Based on these alleged violations the Complaint sought the imposition of a penalty in the amount of \$80,850.

5. As a result of information exchanged during settlement negotiations, U.S. EPA and Respondent have agreed to resolve this matter by executing this CAFO.

## II. Consent Agreement

6. This CAFO resolves the violations alleged in the Complaint up until the date that this CAFO is filed.

7. Respondent admits the jurisdictional allegations contained in the Complaint.

8. Respondent neither admits nor denies the specific factual allegations contained in the Complaint.

9. Respondent hereby waives its right to a judicial or administrative hearing with respect to the Complaint or this CAFO, its right to appeal the proposed final order accompanying

the consent agreement, and explicitly waives any and all rights under any provisions of law, including those pursuant to Section 113(d)(2) and (4) of the Act, 42 U.S.C. § 7413(d)(2) and (4), to challenge the terms and conditions of this CAFO.

10. Respondent certifies that the emissions from Calumet's melt shop, cast house, and associated baghouse are currently in compliance with the particulate mass emission limit set forth in the Illinois SIP at 35 IAC § 212.322.

11. In consideration of the foregoing, and due to the fact that Respondent has been cooperative in providing U.S. EPA with information during the pendency of this matter, and for "other factors as justice may require," the civil penalty proposed in the Complaint is being adjusted in conformance with U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy dated October 25, 1991, to a settlement amount of \$69,646.

12. Respondent agrees to pay to U.S. EPA \$69,646 to settle this proceeding.

13. In addition Respondent agrees to perform a Supplemental Environmental Project as outlined in Paragraphs 19 through 31 to settle this proceeding.

14. Respondent shall pay the settlement amount stated in Paragraph 12 no later than 30 days from the effective date of this CAFO.

15. The settlement payment payable hereunder shall be made

by certified or cashier's check or money order, payable to "Treasurer, United States of America," and mailed to:

U.S. Environmental Protection Agency  
Region 5  
P.O. Box 70753  
Chicago, Illinois 60673

A transmittal letter, indicating Respondent's name, complete address, and this case docket number must accompany the payment. Respondent shall send a copy of the check and transmittal letter to:

- 1) Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard (E-19J)  
Chicago, Illinois 60604; and
- 2) Bonnie Bush  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard (AE-17J)  
Chicago, Illinois 60604; and
- 3) Edward J. Messina  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard (C-14J)  
Chicago, Illinois 60604.

16. Except where stipulated penalty provisions are controlling, Respondent's failure to timely comply with any provision of this CAFO shall render the entire unpaid portion of the proposed civil penalty of \$80,850 immediately due and payable, together with all accrued interest.

17. Failure to pay any penalty assessed under this CAFO may also subject Respondent to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413 (d)(5), to collect any

unpaid portion of the proposed civil penalty, applicable stipulated penalties, together with interest, handling charges and nonpayment penalties as set forth in Paragraph 18, below. In any such collection action, the validity, amount and appropriateness of this CAFO or the settlement payment, stipulated penalty, or penalty assessed hereunder are not subject to review.

18. Pursuant to 42 U.S.C. § 7413(d)(5) and 31 U.S.C. § 3731, Respondent shall pay the following amounts:

a. Interest. Any unpaid portion of the settlement payment, stipulated penalties, or assessed penalty shall bear interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2).

Interest on the settlement payment or assessed penalty shall begin to accrue from the date a copy of the executed CAFO is mailed to Respondent, provided, however, that no interest shall be payable on any portion of the settlement payment or assessed penalty that is paid within 30 days of the date a copy of this CAFO is mailed to Respondent.

b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid for any month in which any portion of the settlement payment, stipulated penalty, or assessed penalty is more than 30 days past due.

c. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to 42 U.S.C. § 7413(d)(4), should Respondent fail to pay on a timely basis the full amount of the settlement payment,

stipulated penalty, assessed penalty, interest, or handling charges, Respondent shall be liable to pay the United States' enforcement and collection expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent (10%) of the aggregate amount of Respondent's outstanding or overdue settlement amounts, penalties and nonpayment penalties accrued from the beginning of such quarter.

19. Respondent shall undertake the following SEP (hereinafter the "Continuous Bag Leak Monitor SEP"), which the parties agree is intended to secure significant environmental or public health protection and improvements. Within forty-five (45) days of the effective date of this CAFO, Respondent shall implement the Continuous Bag Leak Monitor SEP through the purchase and installation of continuous bag leak monitors for its baghouse. The Continuous Bag Leak Monitor SEP shall consist of one "Stack Guard" monitoring unit, which contains six particulate matter probes, manufactured by Codel. One probe shall be installed in each compartment of bags in Respondent's baghouse (Respondent's baghouse contains six compartments for a total of six probes). Each "Stack Guard" monitoring unit probe shall be connected to an alarm located in Respondent's maintenance office.

20. The total expenditure for the Continuous Bag Leak

Monitor SEP shall be not less than Sixteen Thousand Dollars (\$16,000), in accordance with the specifications set forth in Paragraph 19. Respondent shall provide Complainant with documentation of the expenditures made in connection with the Continuous Bag Leak Monitor SEP within Seventy-Five (75) Days after the effective date of this CAFO.

21. Respondent hereby certifies that, as of the date of this CAFO, Respondent is not required to perform or develop the Continuous Bag Leak Monitor SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the Continuous Bag Leak Monitor SEP in an agreement, grant, or as injunctive relief in this or any other case or in compliance with state or local requirements. Respondent further certifies that Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for the Continuous Bag Leak Monitor SEP.

22. Whether Respondent has complied with the terms of this CAFO through the purchase and installation of continuous bag leak monitors for its baghouse as herein required shall be the sole determination of U.S. EPA.

23. (a) Respondent shall submit a SEP Completion Report for the Continuous Bag Leak Monitor SEP to U.S. EPA within seventy-five (75) Days after the effective date of this CAFO. The SEP Report for the Continuous Bag Leak Monitor SEP shall contain the following information:

- (i) A detailed description of the Continuous Bag Leak Monitor SEP as implemented, and where feasible photographs of the installed continuous bag leak monitors;
- (ii) A description of any operating problems encountered and the solutions thereto;
- (iii) Itemized costs, documented by copies of purchase orders and receipts or canceled checks;
- (iv) Certification that the Continuous Bag Leak Monitor SEP has been fully implemented pursuant to the provisions of this CAFO; and
- (v) A description of the environmental and public health benefits resulting from implementation of the Continuous Bag Leak Monitor SEP (with a quantification of the benefits and pollution reductions, if feasible).

(b) Respondent agrees that failure to submit the SEP Completion Report required by subsection (a) above shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to Paragraph 28 below.

24. Respondent agrees that U.S. EPA may inspect the facility at any time in order to confirm that the Continuous Bag Leak Monitor SEP is operating properly and in conformity with the representations made herein.

25. Respondent shall continuously use and operate the systems installed as the Continuous Bag Leak Monitor SEP for not less than three years subsequent to the installation.

26. Respondent shall maintain legible copies of the research and data for any and all documents or reports submitted to U.S. EPA pursuant to this CAFO, and Respondent shall provide

the documentation and data to U.S. EPA within seven days of request for such information. In all documents or reports, including, without limitation, the SEP Report, submitted to U.S. EPA pursuant to this CAFO, Respondent shall, by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

27. (a) Following receipt of the SEP Report described in Paragraph 23 above, U.S. EPA will do one of the following: (i) accept the SEP Report; (ii) reject the SEP Report, notify the Respondent, in writing, of deficiencies in the SEP Report and grant Respondent an additional thirty (30) days in which to correct any deficiencies; or (iii) reject the SEP Report and seek stipulated penalties in accordance with Paragraph 28.

(b) If U.S. EPA elects to exercise option (ii) above, U.S. EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency or disapproval given pursuant to this paragraph within ten (10) days of receipt of such notification. U.S. EPA and Respondent shall have an additional thirty (30) days from the receipt by the U.S. EPA of

the notification of objection to reach agreement. If agreement cannot be reached on any such issue within this thirty (30) day period, U.S. EPA shall provide a written statement of its decision to Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by U.S. EPA as a result of any such deficiency or failure to comply with the terms of this CAFO. In the event the Continuous Bag Leak Monitor SEP is not completed as contemplated herein, as determined by U.S. EPA, stipulated penalties shall be due and payable by Respondent to U.S. EPA in accordance with Paragraph 28.

28. (a) In the event that Respondent fails to comply with any of the terms or provisions of this CAFO relating to the performance of the Continuous Bag Leak Monitor SEP described in Paragraph 19 above and/or to the extent that the actual expenditures for the Continuous Bag Leak Monitor SEP do not equal or exceed the cost of the SEP described in Paragraph 20 above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

(i) Except as provided in subparagraph (ii) immediately below, for a SEP which has not been completed satisfactorily pursuant to Paragraph 19, Respondent shall pay a stipulated penalty to the United States in the amount of Sixteen Thousand Dollars (\$16,000).

(ii) If the Continuous Bag Leak Monitor SEP is not

completed satisfactorily, but the Respondent: a) made good faith and timely efforts to complete the project; and b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the Continuous Bag Leak Monitor SEP, Respondent shall not pay any stipulated penalty.

(iii) If the Continuous Bag Leak Monitor SEP is satisfactorily completed, but the Respondent spent less than 90 percent of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to the United States in the amount of the difference between the actual expenditures and the Sixteen Thousand Dollars (\$16,000).

(iv) If the Continuous Bag Leak Monitor SEP is satisfactorily completed, and the Respondent spent at least 90 percent of the amount of money required to be spent for the project, Respondent shall not pay any stipulated penalty.

(v) For failure to submit the SEP Completion Report required by Paragraph 23 above, Respondent shall pay a stipulated penalty in the amount of One Hundred Dollars (\$100) for each day after the required date of submittal outlined in Paragraph 23 above, until the report is submitted.

(b) The determination of whether the Continuous Bag Leak Monitor SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the Continuous Bag Leak Monitor SEP shall be in the sole

discretion of U.S. EPA.

(c) Stipulated penalties for subparagraph (v) above shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.

(d) Respondent shall pay stipulated penalties within fifteen (15) days of receipt of written demand by U.S. EPA for such penalties. Method of payment shall be in accordance with the provisions of Paragraph 15 above. Interest and late charges shall be paid as stated in Paragraph 18.

(e) Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of U.S. EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.

29. Any public statement, oral or written, made by Respondent making reference to any SEPs included in this CAFO shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for a violation of the Clean Air Act."

30. (a) If any event occurs which causes or may cause delays in the completion of the SEPs as required under this CAFO, Respondent shall notify Complainant in writing within 10 days of

the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. The Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitutes a waiver of the Respondent's right to request an extension of its obligation under this Agreement based on such incident.

(b) If the parties agree that the delay or anticipated delay in compliance with this CAFO has been or will be caused by circumstances entirely beyond the control of Respondent, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.

(c) In the event that the U.S. EPA does not agree that a delay in achieving compliance with the requirements of this CAFO has been or will be caused by circumstances beyond the control of the Respondent, U.S. EPA will notify Respondent in writing of its decision, and any delays in the completion of either SEP shall not be excused.

(d) The burden of proving that any delay is caused by

circumstances entirely beyond the control of the Respondent shall rest with the Respondent. Increased costs or expenses associated with the implementation of actions called for by this CAFO shall not, in any event, be a basis for changes in this Agreement or extensions of time under section (b) of this paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse in achievement of subsequent steps.

31. Respondent hereby agrees that any funds expended in the performance of these SEPs shall not be deductible as a business expense for purposes of Federal taxes. In addition, Respondent hereby agrees that, within thirty (30) days of the date it submits its Federal tax reports for the calendar year in which the above-identified SEPs are completed, it will submit to U.S. EPA certification that any funds expended in the performance of these SEPs have not been deducted from Federal taxes.

32. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA and other Federal, state or local laws or statutes, nor shall it restrict U.S. EPA's authority to seek compliance with all applicable provisions of the Act and other applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor shall it be construed to constitute U.S. EPA approval of the equipment or technology installed by Respondent in connection with the SEPs under the terms of this Agreement.

33. Respondent represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on its behalf is duly authorized to bind Respondent to the terms of this CAFO.

34. The provisions of this CAFO shall be binding on Respondent, its officers, directors, employees, agents, servants, authorized representatives, successors and assigns.

35. Each party shall bear its own costs, fees (including but not limited to attorney's fees) and disbursements in this action.

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

37. This CAFO shall be in full effect upon execution of the Final Order by the Regional Administrator or his designated representative, and filing with the Regional Hearing Clerk.

38. Upon filing, Complainant will transmit a copy of the filed CAFO to the Respondent.

39. Respondent and U.S. EPA agree to issuance of the attached Final Order.

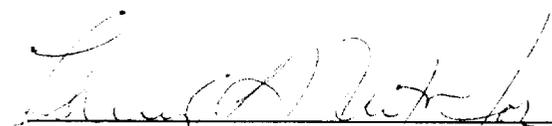
40. Penalties paid pursuant to this CAFO are not deductible for federal tax purposes under 28 U.S.C. § 162f.

In the Matter of Calumet Steel Company  
Docket No. **CAA-5-99-040**

The foregoing Consent Agreement is Hereby Stipulated, Agreed, and  
Approved for Entry:

**U.S. ENVIRONMENTAL PROTECTION  
AGENCY, COMPLAINANT**

Date: 9/2/99

By: 

Margaret M. Guerriero, Acting Director  
Air and Radiation Division  
U.S. Environmental Protection  
Agency, Region 5 (A-18J)  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

**Calumet Steel Company**

Date: SEP 12, 1999

By: 

William J Klein, President  
Calumet Steel Company

In the Matter of Calumet Steel Company  
Docket No. **CAA-5-99-040**

**FINAL ORDER**

It is so ORDERED, in the case of Calumet Steel Company, Chicago Heights, Illinois, Docket No. , as agreed to by the parties and as stated in the foregoing Consent Agreement. This Final Order disposes of this matter pursuant to 40 C.F.R. § 22.18. This Final Order shall become effective upon filing with the Regional Hearing Clerk.



Francis X Lyons  
Regional Administrator

Dated: 9/27/17

Docket Nos. **CAA-5-99-040**

REC'D  
SEP 24 1999

CERTIFICATE OF FILING AND MAILING

99 SEP 24 P2:14

I, Betty Williams, do hereby certify that the original of the foregoing Consent Agreement and Consent Order (CACO), to Calumet Steel Company, was filed with the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois; and that a second original of the CACO was sent by Certified Mail, Return Receipt Requested, to:

William J. Klein, President  
Calumet Steel Company  
317 East 11th Street  
Chicago Heights, Illinois 60411

I also certify that copies of the CACO were sent by first class mail to:

Harish Narayen, Acting Regional Manager  
Region 1  
Illinois Environmental Protection Agency  
1701 South First Avenue - Suite 1202  
Maywood, Illinois 60153

David Kolaz, Chief  
Compliance and Systems Management Section  
Bureau of Air  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62702

on the 24<sup>th</sup> day of September, 1999.

  
Betty Williams, Secretary  
AECAS (IL/IN)

Certificate Numbers: P140895 449