



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

MAR 31 2005

REPLY TO THE ATTENTION OF
(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles Waterman, III
Attorney at Law
Bricker and Eckler, LLP
100 South Third Street
Columbus, Ohio 43215-4291

RECEIVED
REGIONAL COUNSEL
MAR 31 3:33 PM '05
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION V

Dear Mr. Waterman:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves *In re Von Roll America, Inc.*, CAA-05-2004-045. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on MAR 31 2005.

Pursuant to paragraph 10 of the CAFO, your client Von Roll must pay the civil penalty of \$40,000 within 30 days of MAR 31 2005. Your check must display the case docket number, CAA-05-2004-045, and the billing document number, 050305017.

Please direct any questions regarding this matter to John C. Matson, Associate Regional Counsel, at (312) 886-2243.

Sincerely,

William MacDowell

William MacDowell, Chief
Air Enforcement and Compliance Assurance Section (MN-OH)

Enclosures

cc: Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency

Dennis Bush, Supervisor
Northeast District Office
Ohio Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:) Docket No. CAA-05-2004-0045
) Proceeding to Assess a Civil
Von Roll America Inc.) Penalty under Section 113(d) of
East Liverpool, Ohio) 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 (U.S. EPA), 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 27, 2004, U.S. EPA filed the complaint in this action against Respondent Von Roll America Inc. (Von Roll). The complaint alleges that Von Roll violated Section 112(f)(4) of the Clean Air Act, 42 U.S.C. § 7412(f)(4) and 40 C.F.R. § 63.1203(a)(3) at its facility in East Liverpool, Ohio.
3. Von Roll filed an answer and requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

Stipulations

4. Von Roll admits the jurisdictional allegations in the complaint, and neither admits nor denies the factual allegations in the complaint.
5. Von Roll waives its right to contest the allegations in the complaint, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

6 Von Roll certifies that it is complying fully with the National
Emissions Standards for Hazardous Air Pollutants from Hazardous
Waste Combustors (hereinafter, the HWC MACT) at 40 C.F.R.
§§ 63.1200 through 63.1211 and 63.1213.

7 The parties consent to the terms of this consent agreement and
final order (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 Von Roll's cooperation, good faith
efforts, and coming into compliance, U.S. EPA agrees to
mitigate the proposed penalty of \$49,500 to \$40,000

10 Von Roll must pay the \$40,000 civil penalty by cashier's or
certified check payable to the "Treasurer, United States of
America," within 30 days after the effective date of this
CAFO.

11 Von Roll must send the check to:

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

12 A transmittal letter, stating Respondent's name, complete
address, the case docket number, and the billing document
number must accompany the payment. Respondent must write the

case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

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, Illinois 60604-3590

John C. Matson, (C-14J)
Associate Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

13. This civil penalty is not deductible for federal tax purposes.
14. If Von Roll does not pay timely the civil penalty, U.S. 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.
15. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717. Von Roll will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due.

Von Roll will 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.

General Provisions

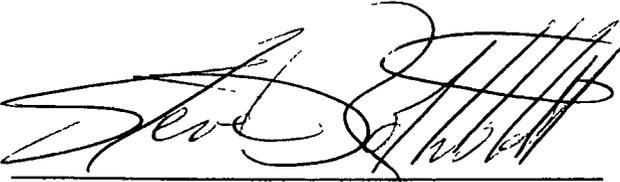
16. This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged in the complaint.
17. Nothing in this CAFO restricts U.S. EPA's authority to seek Von Roll's compliance with the Act and other applicable laws and regulations.
18. This CAFO does not affect Von Roll's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.
19. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Von Roll's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).
20. The terms of this CAFO bind Von Roll, and its successors, and assigns.
21. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement 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 fees in this action.
23. This CAFO constitutes the entire agreement between the parties.

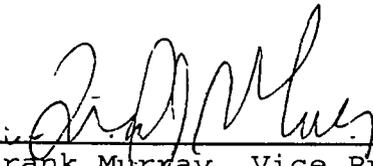
U.S. Environmental Protection Agency, Complainant

Date: 3/28/2005

By: 
Stephen Rothblatt, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

Von Roll America Inc., Respondent

Date: 3/11/05

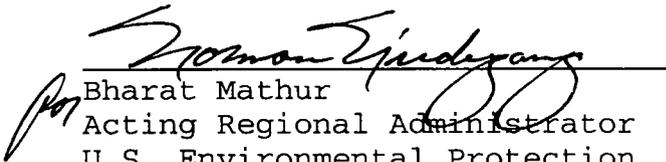
By: 
Frank Murray, Vice President
and General Manager
Von Roll America Inc.
East Liverpool, Ohio

CONSENT AGREEMENT AND FINAL ORDER
Von Roll of America, Inc.
Docket No. CAA-05-2004-045

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date: 3/30/05


Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF SERVICE

I, Loretta Shaffer, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-05-2004-0045 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Von Roll America and Von Roll America's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

on the 31ST day of March, 2005.

RECEIVED
REGIONAL HEARING CLERK
05 MAR 31 P 3:33
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGIONAL OFFICE
MINNEAPOLIS, MN



Loretta Shaffer
AECAS (MN-OH)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0330 0005 9025 7005

CERTIFICATE OF MAILING

I, Loretta Shaffer, do hereby certify that a Consent Agreement and Final Order Pursuant to the Clean Air Act was sent by Certified Mail, Return Receipt Requested, to:

Charles Waterman, III
Attorney at Law
Bricker and Eckler, LLP
100 South Third Street
Columbus, Ohio 43215-4291

Re: Von Roll America, Inc.

I, Loretta Shaffer, certify that a copy of the Consent Agreement and Final Order Pursuant to the Clean Air Act was sent by first class mail to:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
1600 WaterMark Drive
Columbus, Ohio 43215

Dennis Bush, Supervisor
Northeast District Office
Ohio Environmental Protection Agency
2110 East Aurora Road
Twinsburg, Ohio 44087

on the 31ST day of March, 2005

Loretta Shaffer
Loretta Shaffer, Secretary

7001 0320 0005 9025 7005
Certified Mail Article Number

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGIONAL OFFICE
COLUMBUS, OHIO

05 MAR 31 P3:33

RECEIVED