

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
Triangle Construction Company,) **Administrative Consent Order**
Incorporated)
Kankakee, Illinois) **EPA-5-00-113(a) IL-06**
)
Proceeding Pursuant to)
Section 113(a) (1) (A))
of the Clean Air Act,)
42 U.S.C. §§ 7413(a) (1) (A))
_____)

Administrative Consent Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to Triangle Construction Company, Inc. (Triangle) under Section 113(a) (1) (A) of the Clean Air Act (Act), 42 U.S.C. § 7413(a) (1) (A).

Statutory and Regulatory Background

2. Each state must submit to the Administrator of U.S. EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the Act, 42 U.S.C. § 7410.
3. On February 20, 1980, U.S. EPA approved Illinois Rule 203(f) (1) (recodified as 35 IAC 212.301) for controlling fugitive dust emissions as part of the federally enforceable SIP for Illinois. 45 Fed. Reg. 11493.
4. 35 IAC 212.301 states that no person shall cause or allow the emission of fugitive particulate matter from any process, including any material handling or storage activity, that is visible by an observer looking generally toward the zenith at a point beyond the property line of the emission source.
5. On May 31, 1972, U.S. EPA approved Illinois Rule 103(a) (6) (recodified as 35 IAC 201.156) for imposing conditions in a construction permit to accomplish the purposes of the Act as part of the federally enforceable SIP for Illinois. 37 Fed. Reg. 10862.

6. 35 IAC 201.156 states that the Illinois Environmental Protection Agency may impose such conditions in a construction permit as may be necessary to accomplish the purposes of the Act, and as are not inconsistent with the regulations promulgated by the Board thereunder. Except as herein specified, nothing in this Chapter shall be deemed to limit the power of the Agency in this regard. Such conditions may include conditions specifying any testing operations that may be conducted under the construction permit.
7. Under Section 113(a)(1)(A) of the Act, 42 U.S.C. § 7413(a)(1)(A), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating a SIP. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

8. Triangle Construction Company, Inc. (Triangle) owns and operates a Ready Mix Concrete Plant and a Hot Mix Asphalt Plant at 480 North Evergreen Avenue, Kankakee, Illinois.
9. On January 7, 1991, Triangle was issued a Joint Construction and Operating Permit for the Vincehagen Ready Mix Concrete Batch Plant (App. No. 90120001/ID No. 091055ACI) which included special conditions. Condition 4 addressed the fugitive dust rule at 35 IAC 212.301.
10. Emissions from Triangle's roadways (including gravel parking areas) are subject to the fugitive dust rule in the Illinois SIP at 35 IAC 212.301.
11. U.S. EPA conducted an inspection of the Triangle facility on October 21, 1999 and June 6, 2000.
12. U.S. EPA issued a Notice of Violation (NOV) to Triangle on March 2, 2000 for violations of the fugitive dust rule and construction permit Condition 4 from the roadway leading to Triangle's Ready Mix Concrete Plant and the gravel truck parking area at the cold storage area.
13. On April 10, 2000, representatives of Triangle and U.S. EPA held a conference to discuss the March 2, 2000 NOV.
14. Triangle violated 35 IAC 212.301 and Condition 4 of its Joint Construction and Operating Permit.

Compliance Program

15. By the effective date of this Order, Triangle must achieve, demonstrate, and maintain compliance with 35 IAC 212.301 and Condition 4 of its Joint Construction and Operating Permit for the Vincehagen Ready Mix Concrete Batch Plant (App. No. 90120001/ID No. 091055ACI) issued on January 7, 1991.

16. Triangle shall do one of the following:
 - (A) Apply water along the road next to the railroad tracks from Hobbie to Rosewood at a minimum of one time in the morning before truck traffic commences and again at midday before truck traffic commences in the afternoon. If weather conditions call for more watering due to excess dryness, Triangle will water the roads as appropriate. Triangle will not be required to water the roads if excess rain has thoroughly wetted the roads or if the water freezes on the road surface which may cause an accident, or

 - (B) Pave the road next to the railroad tracks from Hobbie to Rosewood. Triangle will monitor the paved road for excess dust and will water the road as appropriate that no dust will cross Triangle's property line, or

 - (C) Cease using the road next to the railroad tracks from Hobbie to Rosewood and will use an alternative route. The alternate route will also be required to meet 35 IAC 212.301 and Condition 4 of Triangle's Joint Construction and Operating Permit.

17. Triangle will record daily the times that it waters the road from Hobbie to Rosewood each day the company is in operation. If no water is applied, this shall also be documented. Triangle will record this information in a log book or by electronic means. Triangle will keep these records on-site for U.S. EPA review. Triangle will submit quarterly reports to U.S. EPA summarizing its water usage. Triangle will submit these reports after each calendar quarter for one year.

18. Triangle must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

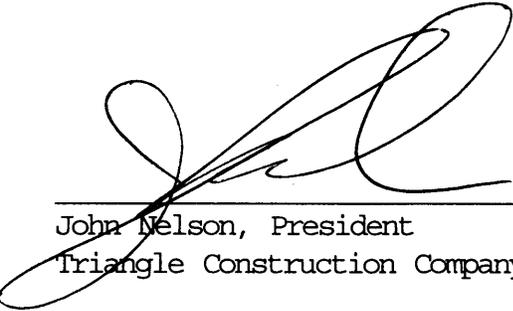
General Provisions

19. This Order does not affect Triangle's responsibility to comply with other local, State, and Federal laws and regulations, including other applicable provisions of the federally approved Illinois SIP.
20. This Order does not restrict U.S. EPA's authority to enforce the Illinois SIP, or any section of the Act.
21. Nothing in this Order limits U.S. EPA's authority to seek appropriate relief, including penalties under Section 113 of the Act, 42 U.S.C. § 7413, for Triangle's violation of the Illinois SIP.
22. Failure to comply with this Order may subject Triangle to penalties of up to \$27,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413.
23. The terms of this Order are binding on Triangle, its assignees and successors. Triangle must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to U.S. EPA, at the above address, that Triangle has given the notice.
24. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation.
25. U.S. EPA may use any information submitted under this Order in an administrative, civil, or criminal action.
26. Triangle agrees to the terms of this Order.

27. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will expire after Triangle has complied with all of its terms, specifically the reporting requirements noted in paragraph 17.

9-6-00

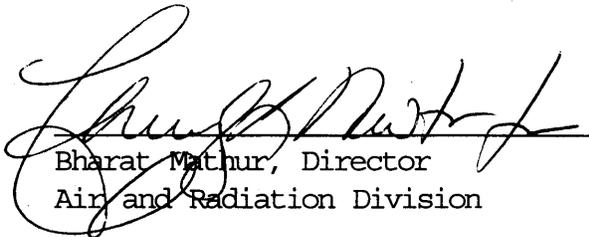
Date



John Nelson, President
Triangle Construction Company, Inc.

9/14/00

Date



Bharat Mathur, Director
Air and Radiation Division

Enclosure

CERTIFICATE OF MAILING

I, Betty Williams, do hereby certify that a final Administrative Consent Order, EPA-5-00-113(a) IL-06, was sent by Certified Mail, Return Receipt Requested, to:

John Nelson, President
Triangle Construction Company, Inc.
480 North Evergreen Avenue
Kankakee, Illinois 60901-0583

I also certify that a copy of the final Administrative Consent Order was sent by First Class Mail to:

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

on the 18th day of September 2000.


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 2199026446