

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
KNAUF FIBER GLASS GmbH,)
)
Defendant.)

IP01-1445 CV-B/S

CAUSE NO:

FILED

APR 12 2002

**U.S. DISTRICT COURT
INDIANAPOLIS, INDIANA**

CONSENT DECREE

Plaintiff, the United States of America, on behalf of the United States Environmental Protection Agency, concurrent with the lodging of this Consent Decree filed a Complaint in the United States District Court for the Southern District of Indiana under Section 113(b) of the Clean Air Act ("the Act"), 42 U.S.C. § 7413(b), for injunctive relief and civil penalties against Defendant Knauf Fiber Glass GmbH ("Knauf"), for alleged violations of the Indiana State Implementation Plan ("SIP").

The United States and Knauf agree that settlement of this action is in the public interest and that entry of this Consent Decree without further litigation is the most appropriate means of resolving this matter.

The United States and Knauf consent to entry of this Decree without trial of any issue of fact or adjudication of any issue of law. Knauf enters into this Consent Decree solely for the purposes of settling this matter and does not admit any of the violations alleged in the Complaint.

THEREFORE, it is hereby ORDERED AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1331, 1345 and 1355. Venue in this District is proper because it is the judicial district in which Defendant's Facility is located and in which the alleged violations occurred. The parties agree to be bound by the terms of this Consent Decree and agree not to contest its validity in any subsequent proceeding.

II. DEFINITIONS

2. Unless specifically defined in this section or elsewhere in this Consent Decree, terms used herein shall have the meanings set forth in Section 302 of the Clean Air Act, 42 U.S.C. § 7602, any regulations promulgated under the Act, and the Indiana SIP.

3. "Act" means the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq.

4. "Day" means a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or Federal Holiday, the period shall run until the close of business of the next working day.

5. "EPA" or "the Agency" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

6. "Facility" means Plant I of the Knauf Shelbyville site consisting of lines 601, 602, 603, and 605 located in Shelbyville, Indiana.

7. "Force Majeure" means any event arising from causes beyond the control of Knauf that delays or prevents the performance of any obligation under this Consent Decree despite Knauf's best

efforts to fulfill the obligation. The requirement that Knauf exercise “best efforts to fulfill the obligation” includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (1) as it is occurring and (2) following the potential force majeure event, such that the delay is minimized to the extent reasonably possible. Increased costs, or the inability to fund a requirement of this Consent Decree, shall not constitute Force Majeure under this Consent Decree.

8. “IDEM” means the Indiana Department of Environmental Management, and any successor departments or agencies of the State of Indiana.

9. “Indiana SIP” means the Indiana State Implementation Plan, as promulgated and approved pursuant to Section 110 of the Act, 42 U.S.C. § 7410.

10. “Knauf” means the Defendant Knauf Fiber Glass GmbH.

11. “United States” shall mean the United States of America, including all of its departments, agencies and instrumentalities.

III. APPLICABILITY

12. The provisions of this Consent Decree shall apply to and be binding on the United States and Knauf, as well as Knauf’s successors and assigns. The signatory for Knauf represents that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to bind Knauf legally. Before retaining any contractor or other person to perform any testing required pursuant to this Consent Decree, Knauf shall provide a copy of this Consent Decree to such contractor. Knauf shall give notice of this Consent Decree to any successor in interest prior to the transfer of any ownership interest or right to operate its Facility located in Shelbyville, Indiana, including but not limited

to the sale, lease, or licensing of others to operate the Facility, if such transfer of ownership interest, including but not limited to sale, lease, or licensing of others to operate the Facility, occurs prior to the termination of this Consent Decree. Knauf shall send a copy of such written notification by certified mail, return receipt requested, to EPA, Region 5, at the addresses set forth in Paragraph 27, prior to such sale or transfer. Upon sale or transfer of the Facility, if such sale or transfer occurs prior to the termination of this Consent Decree, Knauf shall attach a copy of this Consent Decree to the agreement by which the Facility is sold or transferred, and shall make performance of Knauf's obligations under this Consent Decree an obligation of any purchaser or transferee.

IV. BACKGROUND

13. Knauf does business in the State of Indiana and operates, manages, controls, and maintains the Facility at a site located in Shelbyville, Indiana.

14. The United States has alleged in its Complaint that Knauf has violated the Indiana SIP at its Facility by emitting particulate matter ("PM") from a furnace stack (Line 605 furnace) in excess of the particulate emissions limits in the Indiana SIP, 325 IAC Section 11-4-5.

15. Knauf's Shelbyville site manufactures fiberglass used for insulation. The site has two plants, Plant I and Plant III. Plant III is not the subject of either the United States' Complaint in this matter, or this Consent Decree. The Plant III facility is located north of the Plant I site. Plant I has 4 lines: 601, 602, 603 and 605. Line 601's emissions exhaust through one stack. Line 602 has two stacks: the forming and curing oven exhausts which are combined into one stack, and the furnace stack. The Line 602 furnace is subject to New Source Performance Standards ("NSPS") located at 40 C.F.R. Part 60, Subpart CC because the furnace was changed from electric to natural-gas fired in

October 1992. Line 603 has one stack for forming. Line 605 has four stacks: north forming, south forming, curing oven and furnace. All four lines are subject to the Indiana SIP.

16. Fiberglass manufacturing is the high-temperature conversion of various raw materials (predominantly borosilicates) into a homogeneous melt, followed by the fabrication of this melt into glass fibers. Knauf produces wool fiberglass. Wool fiberglass production can be segmented into 3 phases: raw materials handling; glass melting and refining; and wool fiberglass forming and finishing. Particulate matter is the principal pollutant that has been identified and measured at wool fiberglass insulation manufacturing facilities.

17. The violations alleged in the complaint were based on PM emissions as evidenced by stack tests conducted by Knauf.

V. COMPLIANCE PROGRAM

18. Knauf shall achieve and maintain continuous compliance with the Act and with the Indiana SIP at its Facility.

19. Knauf shall perform two stack tests at the Furnace 605 stack during the period between June 14, 2001 and June 14, 2002. These stack tests will be designed to demonstrate compliance with the Indiana SIP for particulate matter and will utilize Methods 1-5 and 9. The second test no sooner than three (3) months after the first test. After June 14, 2002, Knauf will comply with the requirements, including the testing requirements, of the applicable NESHAP contained in 40 CFR Part 63, Subpart NNN.

20. Knauf shall retain for 5 years copies of all reports, test results, or other documents pertinent to this Consent Decree.

VI. SUPPLEMENTAL ENVIRONMENTAL PROJECT

21. Knauf has agreed to implement a Supplemental Environmental Project ("SEP") at a total capital cost of not less than one million, fifteen thousand dollars (\$1,015,000) by no later than June 14, 2001, which will reduce PM emissions significantly from the Line 605 furnace, and which will allow Knauf to comply early with upcoming NESHAP emissions requirements contained at 40 C.F.R. Part 63 Subpart NNN that will apply to that furnace stack on or about June 14, 2002. Specifically, Knauf is proposing to install by June 14, 2001, and operate thereafter, with the exception of periods of routine maintenance, malfunctions (as defined in 326 IAC 1-6), and/or emergencies (as defined in 326 IAC 2-7-16), a gas/oxy fuel system and baghouse on the Line 605 furnace stack. Although Furnace 605 is not subject to Subpart CC of the federal new source performance standards, Knauf will satisfy the requirements of 40 CFR 60.292(e) for any routine maintenance performed on the new Furnace 605 baghouse from the effective date of this Consent Decree until June 14, 2002, at which time the NESHAP requirements will take over. Such installation and operation will allow Knauf to be in compliance with applicable NESHAP emissions requirements 1 year earlier than required by EPA regulations. Knauf estimates that this project will significantly decrease particulate matter and carbon monoxide emissions and also decrease NO_x emissions by almost 50%.

22. Certifications and Reporting. Knauf shall certify to EPA, in writing, the cost and installation of the equipment identified in Paragraph 21, above, within ninety (90) days of the date of completion of the activity specified in Paragraph 21, above. With that certification, Knauf shall provide supporting documentation, such as paid invoices, and bills which document the cost of the SEP specified in Paragraph 21, above. Knauf shall provide a separate certification to EPA, in writing, within ten (10) days of the date that the equipment identified in Paragraph 21, above, begins operating. Knauf

shall comply with the NESHAP as of June 14, 2002, and shall conduct performance tests for the equipment identified in Paragraph 21, above, as required in 40 C.F.R. § 63.7 and § 63.1384, within 180 days of June 14, 2002. Knauf shall comply with all monitoring, recordkeeping and reporting requirements set out in the NESHAP. Any performance test results under this paragraph or paragraph 19 should also be sent to EPA and IDEM within 45 days of such performance test. When Knauf submits its performance test results to EPA, it shall also send a report which describes the environmental benefits of the SEP project described in Paragraph 21, above.

23. All certifications and reports required by this Consent Decree to be sent to EPA shall be sent to:

Chief, Air Enforcement & Compliance Assurance Section (Illinois-Indiana)
Air Enforcement & Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5 (ARE-17J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

All certifications and reports required by this Consent Decree to be sent to IDEM shall be sent to:

David McIver, Chief
Air Section
Office of Enforcement
Indiana Department of Environmental Management
100 North Senate, Room 1001
Indianapolis, Indiana 46206-6015

24. By signing this Consent Decree, Knauf certifies that the installation of the gas/oxy fuel system and baghouse on the Line 605 furnace stack by June 14, 2001, as described in Paragraph 21, above, is not required by Federal, State or local law.

25. Any public statements, oral or written, made by Knauf making reference to the SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. EPA for violations of the Clean Air Act."

26. Whether Knauf has satisfactorily completed the SEP described in Paragraph 21, above, shall be the sole determination of EPA.

VI. CIVIL PENALTIES

27. Knauf shall pay a civil penalty in the amount of \$70,000 to the United States. Payment of the civil penalty together with the satisfactory completion of the SEP described in Paragraph 21 above, will resolve the claims of the United States for the alleged violations of the Act set forth in the Complaint filed herein. Knauf shall pay the \$70,000 civil penalty, by Electronic Funds Transfer ("EFT") to the U.S. Department of Justice ("DOJ") lockbox bank, referencing DOJ No. 90-5-2-1-06368, within 30 days after entry of this Consent Decree. Payment shall be made in accordance with instructions provided by the United States to Knauf following execution of this Consent Decree. Any EFT received at the DOJ lockbox bank after 11:00 A.M. Eastern Time will be credited on the next business day. The EFT payment shall include a transmittal letter, bearing a notation as to the caption and civil docket number of this action, and should be sent to:

United States Attorney's Office
10 West Market Street
Suite 2100
Indianapolis, IN 46204-3048

Simultaneously with the making of such payment, Knauf shall submit copies of the EFT transaction and the payment transmittal letter, identifying this Consent Decree and this paragraph, to the following addresses:

Padma Klejwa
Associate Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5 (C-14J)
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Chief, Air Enforcement & Compliance Assurance Section (Illinois-Indiana)
Air Enforcement & Compliance Assurance Branch
U.S. Environmental Protection Agency
Region V (ARE- I 7J)
77 West Jackson Boulevard
Chicago, Illinois 60604

Chief, Environmental Enforcement Section
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044 Ref. DOJ # 90-5-2-1-06368

28. Knauf acknowledges that it is not entitled to deduct for federal or state tax purposes the civil penalty paid in this case.

VII. INTEREST

29. Should Knauf fail to make timely payment of the civil penalty or any stipulated penalty, Knauf must include in any subsequent payment simple interest calculated from a date 30 days after entry of the Consent Decree or from the date any stipulated penalty is due. Interest must be calculated at the statutory judgment interest rate provided for in 31 U.S.C. § 3717, and is in addition to any penalty or other sanction the Court may impose in the event of nonpayment.

VIII. STIPULATED PENALTIES

30. If Knauf fails to comply with the requirements of Paragraphs 18 or 19 of Section V, Compliance Program, then Knauf shall pay a stipulated penalty as follows:

<u>Period of Failure to Comply</u>	<u>Stipulated Penalty</u>
1st to 10th day	\$2,000/day per violation
11th to 30th day	\$5,000/day per violation
After 30th day	\$10,000/day per violation
After 45th day	\$25,000/day per violation

31. If Knauf initiates work on the SEP, but fails to satisfactorily complete the SEP described in Paragraph 21, above, after being notified by EPA that the SEP has not been satisfactorily completed, Knauf shall pay a stipulated penalty of \$45,000.

32. If Knauf satisfactorily completes the SEP described in Paragraph 21, above, but spends less than 90 percent of the amount of money required to be spent on the SEP, as stated in Paragraph 21, above, Knauf shall pay a stipulated penalty in the amount of \$22,500.

33. If Knauf fails to comply with the requirements of Paragraph 22 of Section VI, Supplemental Environmental Project, then Knauf shall pay a stipulated penalty as follows:

<u>Period of Failure to Comply</u>	<u>Stipulated Penalty</u>
1st to 10th day	\$2,000/day per violation
11th to 30th day	\$5,000/day per violation
After 30th day	\$10,000/day per violation
After 45th day	\$25,000/day per violation

34. Stipulated penalties herein shall be in addition to other remedies or sanctions available to the United States by reason of Knauf's failure to comply with the requirements of this Consent Decree.

35. Any stipulated penalties incurred by Knauf shall be paid by certified or cashier's check payable to "Treasurer, United States of America," and shall be tendered to the United States Attorney for the Southern District of Indiana, 10 West Market Street, Suite 2100, Indianapolis, IN 46204-3048, within thirty (30) days of the date that the violations occurred, together with a letter describing the basis

for the penalties. Knauf shall transmit evidence of any payment made pursuant to Paragraphs 30 through 33 to DOJ and EPA at the addresses set forth in Paragraph 27, above.

36. Any and all stipulated penalties shall be due without demand by the United States.

37. No penalties or interest shall accrue for violation(s) of deadlines imposed by this Decree which were caused by events determined to be Force Majeure pursuant to Paragraphs 43 through 45.

IX. LATE PAYMENT OF STIPULATED PENALTY

38. If Knauf fails to make timely payment of the stipulated penalties under this Consent Decree, Knauf shall be liable for interest and penalties. Such late penalty payment(s) shall include the following:

- a) Interest at the percentage rate established by the Department of Treasury pursuant to 31 U.S.C. § 3717, for any period after the due date;
- b) A handling charge of \$20.00 at the end of the first thirty (30) day late period and a handling charge of \$10.00 for each thirty (30) day late period thereafter; and,
- c) A six percent per annum penalty charge if the penalty is not paid within ninety (90) days of the due date.

X. RIGHT OF ENTRY

39. EPA and its authorized representatives, contractors, and consultants shall have authority to enter the facility at all reasonable times, upon proper presentation of credentials, to carry out any inspections and conduct any sampling or tests which EPA believes are necessary to ensure compliance with this Consent Decree. Any dispute with respect to EPA's right of entry under this Decree shall be

governed by Paragraphs 46 and 47 (Dispute Resolution). This provision in no way limits or otherwise affects any right of entry held by EPA pursuant to applicable federal, state, or local laws, regulations, or permits, including EPA's right of entry and inspection under Section 114 of the Act, 42 U.S.C. § 7414.

XI. NOTIFICATION AND REPORT PREPARATION

40. All notices and submissions required by this Consent Decree to be sent to EPA shall be in writing. Unless otherwise provided herein, any notification to or communication with EPA or the United States shall be deemed submitted on the date it is postmarked and sent by overnight receipt mail service or certified or registered mail, return receipt requested. Except as otherwise provided herein, when written notification to or communication with EPA is required by the terms of this Consent Decree, it shall be addressed as follows:

Chief, Air Enforcement & Compliance Assurance Section (Illinois-Indiana)
Air Enforcement & Compliance Assurance Branch
U.S. Environmental Protection Agency
Region V (ARE- I 7J)
77 West Jackson Boulevard
Chicago, Illinois 60604

Chief, Environmental Enforcement Section
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044

Ref DOJ # 90-5-2-1-06368

Except as otherwise provided herein, when written notification to or communication with Knauf is required by the terms of this Consent Decree, it shall be addressed as follows:

Stephen R. Aldridge, CHMM, Manager
Environmental Health & Safety
Knauf Fiber Glass GmbH
240 Elizabeth Street
Shelbyville, Indiana 46176-1496

41. A duly authorized representative of Knauf having knowledge of the contents of any notice or submission required by this Consent Decree to be sent to EPA shall sign and certify that the information contained in the notice or submission report is true, accurate, and complete based on his/her knowledge, information, and belief. Knauf shall use the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based upon my inquiry of the person or persons who manage Knauf or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

42. Compliance with the reporting and notification requirements of this Consent Decree shall not relieve Knauf of its obligation to comply with any other reporting and notification requirements imposed by any applicable federal, state, or local laws, regulations, or permits.

XII. FORCE MAJEURE

43. Knauf shall comply with deadlines imposed by this Consent Decree and submissions approved pursuant to this Consent Decree, unless a "Force Majeure" event occurs.

44. Knauf shall notify EPA by telephone within seventy-two (72) hours by calling Mr. Nicholas Autry at (312) 886-2258, and in writing no later than seven (7) days, after it becomes aware of any event which Knauf contends is a Force Majeure. Such notification shall describe the anticipated

length of the delay, the cause or causes of the delay, the measures taken or to be taken by Knauf to minimize the delay, and the timetable by which these measures will be implemented. Knauf shall include with any written notice sufficient documentation to support the claim that the delay was attributable to a Force Majeure. Failure to comply with the above requirements shall preclude Knauf from asserting any claim of force majeure for the event. The decision whether an event is a force majeure shall be made by EPA, whose approval may not be unreasonably withheld. EPA shall communicate the decision to Knauf in writing. If a delay is attributed to a Force Majeure, EPA shall extend, in writing, the time period for performance under this Consent Decree by the amount of time that is attributable to the event constituting the Force Majeure. An extension of one compliance date shall not, by itself, extend Knauf's time for compliance with any subsequent compliance date. Knauf must make a separate showing regarding each requirement for which Knauf seeks an extension.

45. If Knauf does not agree with EPA's decision whether an event is a Force Majeure or whether the duration of any delay is or will be warranted under the circumstances, Knauf may invoke the Dispute Resolution provisions of Paragraphs 46 and 47.

XIII. DISPUTE RESOLUTION

46. Any dispute arising under or concerning this Consent Decree shall be the subject of informal negotiations between the parties to this action for a period of up to thirty (30) days from the time when written notice of the existence of a dispute is given before the procedures set forth in Paragraph 47, below, are invoked. The period for such informal negotiations may be extended by written agreement of the parties to the dispute.

47. If the parties cannot resolve a dispute by informal negotiations under the preceding paragraph, then either party may petition the Court to resolve the dispute, setting forth the matter in dispute, the efforts made by the parties to resolve it, and the party's proposed resolution. The other party shall have ten (10) days to file a response to the petition, setting forth its proposal for resolution of the dispute. In proceedings on any dispute governed by this paragraph, Knauf shall have the burden of demonstrating that EPA's position is arbitrary and capricious or otherwise not in accordance with law. In proceedings on any dispute governed by this paragraph, neither party shall have a right to discovery.

XIV. NOT A PERMIT

48. This Consent Decree is not and shall not be interpreted to be a permit, or a modification of the Indiana SIP, nor shall it in any way relieve Knauf of its obligations to obtain permits and comply with the requirements of such permits or with any other applicable federal, state, or local law or regulation. Nothing in this Consent Decree alters Knauf's obligations to comply with any new permit or modification of existing permits, in accordance with applicable federal, state, and local laws and regulations.

XV. SCOPE OF SETTLEMENT

49. a. Compliance with each and every requirement of this Consent Decree shall satisfy all civil liability of the Defendant for the United States' civil claims under the Clean Air Act specifically alleged in the Complaint through the date of lodging of this Consent Decree.

b. The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in any manner that Knauf's complete compliance with this Consent Decree will result in compliance with the provisions of the Act, the Indiana SIP, or any applicable permit. Notwithstanding

EPA's review and approval of any plans formulated pursuant to this Consent Decree, Knauf shall remain solely responsible for compliance with the terms of the Act, this Consent Decree, and the Indiana SIP.

XVI. RESERVATION OF RIGHTS

50. Reservation of Rights by the United States. The United States reserves all rights and remedies available to it to enforce the provisions of this Consent Decree, the Act, regulations promulgated under the Act, or any other federal, state, or local laws or regulations. Nothing herein shall be construed to limit the authority of the Administrator to obtain information from any person, including Knauf, pursuant to Section 114 of the Act, 42 U.S.C. § 7414, or to undertake any action against any person, including Knauf, pursuant to Section 303 of the Act, 42 U.S.C. § 7603, in response to evidence indicating that Knauf is, by itself or in combination with other sources, presenting an imminent and substantial endangerment to the health or welfare of any person.

51. Reservation of Rights by Knauf. Knauf expressly reserves all rights, remedies, and defenses it may have with respect to any subsequent action by the United States to enforce the Indiana SIP against Knauf.

XVII. INTEGRATION AND MODIFICATION

52. This Consent Decree represents the entire agreement of the parties. There shall be no modification of this Consent Decree without written approval of all of the parties to this Consent Decree and the Court.

XVIII. PUBLIC COMMENT

53. Final approval of this Consent Decree is subject to the public notice and comment requirements of 28 C.F.R. § 50.7. The United States may withdraw or withhold its consent if the public comments establish, in the United States' view, that entry of this Consent Decree would be inappropriate, improper, or inadequate. After reviewing the public comments, if any, the United States shall advise the Court and Knauf whether it seeks entry of this Consent Decree. Knauf agrees to the entry of this Consent Decree without further notice.

XIX. CONTINUING JURISDICTION OF THE COURT

54. The Court shall retain jurisdiction to modify and enforce the provisions of this Consent Decree, to resolve disputes arising hereunder, and to take any action necessary or appropriate for the interpretation or execution of this Consent Decree. Any of the parties to this Consent Decree may petition the Court to invoke this Paragraph.

XX. GENERAL PROVISIONS

55. Nothing contained herein shall be construed to prevent or limit the rights of the United States to obtain any other remedy, sanction, or relief which may be available to it by virtue of Knauf's failure to comply with this Consent Decree, the Clean Air Act, or the Indiana SIP. The United States expressly reserves all remedies available to it for violations of the Act not specifically pled in the Complaint filed in this action.

56. Nothing in this Consent Decree shall constitute or be construed as a covenant not to sue for or waiver of any claims, causes of action or demands, in law or equity, against any person, firm,

entity, partnership or corporation not a signatory to this Consent Decree for any liability it may have arising out of or relating in any way to the subject matter of the Complaint.

57. This Consent Decree does not limit or affect the rights of Knauf or the United States against any third parties. The parties to this Decree expressly reserve all rights, claims, demands, and causes of action they may have against any and all other persons or entities who are not parties to this Decree.

58. This Consent Decree is not intended for the benefit of any person not a party to this Decree and may not be enforced by any such person.

59. Each party shall bear its own costs and attorney's fees. Should Knauf subsequently be determined to have violated the terms and conditions of this Consent Decree, then Knauf shall be liable to the United States for any reasonable costs and attorneys' fees incurred by the United States in any actions against Knauf arising out of its noncompliance with this Consent Decree.

60. Knauf hereby agrees to waive the formal service requirements set forth Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including, but not limited to, service of a summons, and to accept service of the Complaint filed in this action by certified U.S. mail.

61. Knauf acknowledges that it has been notified that it may be subject to penalties under Section 120 of the Act, 42 U.S.C. § 7420, and the regulations promulgated thereunder, 40 C.F.R. Part 66 (45 Fed. Reg. 50086, et seq.), relating to the mandatory payment of noncompliance penalties by major air pollution sources violating certain applicable emission limitations.

XXI. WAIVER

62. Knauf waives all potential claims and/or counterclaims against the United States arising out of or in any way related to the facts and circumstances of this civil action.

XXII. TERMINATION

63. After Knauf has maintained continuous compliance with the Act, the Indiana SIP, and this Consent Decree for a period of two (2) years from the date of Knauf's initial performance test under Paragraph 22, above, Knauf shall immediately certify such compliance to the EPA. Knauf may move to terminate the Consent Decree ninety (90) days after receipt by the EPA of such certification unless EPA notifies Knauf of its objection to said certification. The United States reserves its right to seek extension of this period in the event of any violation of this Consent Decree, or to fully effectuate the purposes of the Consent Decree. In the event that this Court must resolve a dispute concerning termination of this Consent Decree, Knauf shall have the burden of proving it has maintained full compliance with the requirements of this Consent Decree; maintained full compliance with the Act; maintained full compliance with Indiana SIP; and that Knauf has taken reasonably adequate steps to ensure such compliance with the Act and the Indiana SIP, will continue.

Consent Decree lodged this 12th day of April, 2001.²


Clerk of Court **CLERK** by Melanie
Council
deputy
clerk

Consent Decree entered in accordance with the foregoing this 11th day of

April, 2001.

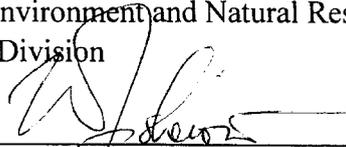
Sarah Marcus Barker

United States District Judge
United States District Court
Southern District of Indiana

Consent Decree
U.S. V. Knauf Fiber Glass GmbH

FOR PLAINTIFF, THE UNITED STATES OF AMERICA:

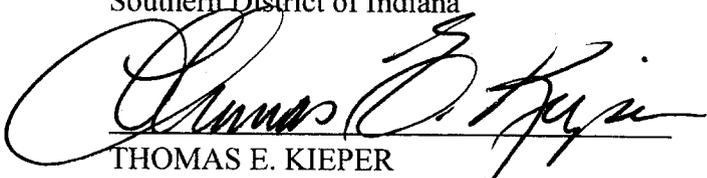
JOHN C. CRUDEN
Acting Assistant Attorney General
Environment and Natural Resources
Division



Dated: 9/12/01

W. BENJAMIN FISHEROW
Deputy Chief
Environmental Enforcement Section
P.O. Box 7611
Washington, D.C. 20044

TIMOTHY M. MORRISON
United States Attorney
Southern District of Indiana



Dated: 9/25/01

THOMAS E. KIEPER
Assistant United States Attorney
Southern District of Indiana

Consent Decree
U.S. V. Knauf Fiber Glass GmbH

Dated: 7-19-01



for DAVID A. ULLRICH
Acting Regional Administrator
U.S. Environmental Protection Agency,
Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3590

Dated: 7/18/01



PADMAVATI G. KLEJWA
Associate Regional Counsel
U.S. Environmental Protection Agency
Region 5, (Mail Code C-14J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

**Consent Decree
U.S. V. Knauf Fiber Glass GmbH**

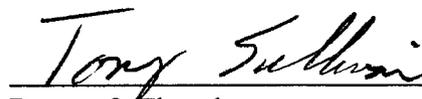
FOR DEFENDANT KNAUF FIBER GLASS GmbH:

Dated: 6/15/01



ROBERT J. KRANZ
Knauf Fiber Glass GmbH
One Knauf Drive
Shelbyville, Indiana 46176

Dated: 6/25/01



Barnes & Thornburg
11 South Meridian Street
Indianapolis, Indiana 46204
Attorney for Knauf Fiber Glass GmbH