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REGISTRATION

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

OCT 31 1994

IN THE MATTER OF:) Docket No. CAA-5-2000-016
)
Indiana Municipal Power) Proceeding to Assess an
Agency, Carmel, Indiana) Administrative Penalty
at its) under Section 113(d) of the
Anderson Combustion Turbine) Clean Air Act,
Facility, Anderson, Indiana) 42 U.S.C. § 7413(d)
and)
Richmond Combustion Turbine)
Facility, Richmond, Indiana,)

Respondent.

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (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 **OCT 31 2000**, EPA filed the complaint in this action against Respondent Indiana Municipal Power Agency. The complaint alleges that IMPA violated Sections 412 and 821 of the Act, 42 U.S.C. §§ 7401-7671q, and 40 C.F.R. Part 72 and 75 at its facilities in Anderson and Richmond.

Stipulations

3. IMPA admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint.

4. IMPA waives its right to a hearing pursuant to 40 C.F.R. § 22.15(c), and waives its right to appeal pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

5. IMPA certifies that it is complying fully with 40 C.F.R. Parts 72 and 75.

6. The parties consent to the terms of this Consent Agreement and Final Order (CAFO).

7. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

8. In consideration of IMPA's voluntary written and timely self-disclosure of its violations through letters dated February 10, 2000, February 14, 2000 and April 14, 2000 in accordance with the procedures set forth in the February 22, 1995 "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" policy (60 F.R. 66706), EPA agrees to mitigate the proposed penalty to \$74,289.00, which represents the economic benefit gained by IMPA for its failure to comply with the provisions of the Acid Rain Program. The gravity portion of the penalty was mitigated by 100% due to the above referenced Self-Policing Policy. Respondent consents to the assessment of and agrees to pay this mitigated civil penalty. 40 C.F.R. § 22.18(b)(3).

9. IMPA shall pay the \$74,289.00 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.

10. IMPA shall send the check to:

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

11. A transmittal letter, stating Respondent's name, complete address, the case docket number and the billing document number must accompany the payment. Respondent shall write the case docket number and the billing document number on the face of the check. Respondent shall 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

Nidhi K. O'Meara, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

12. This civil penalty is not deductible for federal tax purposes.

13. If IMPA does not timely pay the civil penalty, 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. Interest shall accrue on any amount overdue from the date the payment was due at a rate established pursuant to 26 U.S.C. § 6621(a)(2). IMPA shall pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. IMPA shall 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 shall be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

General Provisions

15. This CAFO settles EPA's claims for civil penalties for the violations alleged in the complaint.

16. Nothing in this CAFO shall restrict EPA's authority to seek IMPA's compliance with the Act and other applicable laws and regulations.

17. This CAFO does not affect IMPA's responsibility to comply with the Act and other applicable federal, state and local laws and regulations.

18. 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 IMPA's "full compliance history" pursuant to Section 113(e) of the Act, 42 U.S.C. § 7413(e).

19. The terms of this CAFO bind IMPA its successors, and assigns and IMPA's officers, directors, agents and authorized representatives solely in their capacities as such.

20. 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.

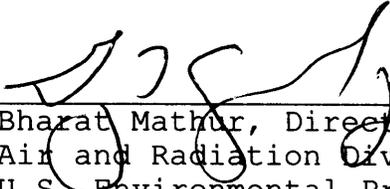
21. Each party shall bear its own costs and fees in this action.

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

**U.S. Environmental Protection
Agency, Complainant**

Date: 10/20/00

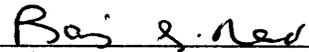
By:

 ALTING
Bharat Mathur, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

Indiana Municipal Power Agency,
Respondent

Date: 10/9/2000

By:

 Rajeshwar Rao
Rajeshwar Rao, President
Indiana Municipal Power Agency

CONSENT AGREEMENT AND CONSENT ORDER
Indiana Municipal Power Agency
Docket No.

Consent 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. This Order disposes of the matter pursuant to 40 C.F.R. § 22.18(c).

Date: _____

10/27/00



Francis X. Lyons
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

In the Matter of Indiana Municipal Power Agency
Docket No: CAA-5-2000-016

REC
OCT 31 09:44

CERTIFICATE OF FILING AND MAILING

I, Betty Williams, do hereby certify that the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, Region 5, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604 and that correct copies, were mailed first-class, postage prepaid, certified mail, return receipt requested, to the Respondent's Counsel by placing it in the custody of the United States Postal Service addressed as follows:

Mr. Anthony Sullivan
Barnes and Thornburg
11 South Meridian Street
Indianapolis, Indiana 46204

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

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

Mr. Rajeshwar Rao, President
Indiana Municipal Power Agency
11610 North College Avenue
Carmel, Indiana 46032

on the 31st Day of October, 2000.



Betty Williams, Secretary
AECAS (IL/IN)

FEDERAL EXPRESS RECEIPT NUMBER: 7099 3400 0000 9591 7887