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REGIONAL OFFICE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

'99 SEP 30 P4:38

IN THE MATTER OF:

Village of Freeburg  
Freeburg, Illinois,

Respondent.

)  
)  
) US  
) Pocket No. CAA-5-99-035  
) REGION  
) Proceeding to Assess an  
) Administrative Penalty under  
) Section 113(d) of the Clean  
) Air Act, 42 U.S.C. § 7413(d)  
)  
)  
)

**CONSENT AGREEMENT AND FINAL ORDER**

1. Complainant, the Acting 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 22, 1999, U.S. EPA filed an Administrative Complaint ("complaint") against Respondent, Village of Freeburg. The complaint alleges that the Village of Freeburg violated the Illinois State Implementation Plan regulation Illinois Rule 203.201 and 203.203 at its electric utility generation facility in Freeburg, Illinois. The complaint proposes a civil penalty of \$38,400.

**Stipulations**

- 3. Respondent admits the jurisdictional allegations in the complaint.
- 4. Respondent waives its right to an administrative 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. Respondent neither admits or denies the factual allegations in the Complaint.
6. Respondent certifies that it has asked the Illinois Environmental Protection Agency (IEPA) in writing for a 39 tons per year NOx emission limit on its generators #8 and #9 and for an overall plant NOx emission limit (for all eight generators) of 100 tons per year. Respondent further certifies that it has asked for these limits to be set by IEPA in a Title I/Title V permit.
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 the CAFO, is in the public interest.

#### CIVIL PENALTY

9. In consideration of the nature of the violation, Respondent's good faith efforts to comply, and other matters as justice may require, U.S. EPA has agreed to mitigate the proposed penalty to TWENTY THREE THOUSAND DOLLARS (\$23,000).
10. Respondent shall pay the \$23,000 civil penalty by cashier's or certified check payable to "Treasurer, United States of America," within thirty (30) days after the effective date of this CAFO.
11. Respondent shall send the cashier's or certified check to:  

U.S. Environmental Protection Agency, Region 5  
P.O. Box 70753  
Chicago, IL 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 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:

**Regional Hearing Clerk (R-19J)**  
U.S. EPA, Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604-3590

**Compliance Tracker, (AE-17J)**  
**Air Enforcement and Compliance Assurance Branch**  
**Air and Radiation Division**  
U.S. EPA, Region 5  
77 W. Jackson Blvd.  
Chicago, IL (60604-3590)

**Gaylene Vasaturo (C-14J)**  
**Associate Regional Counsel**  
U.S. EPA, Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604-3509

13. This civil penalty, specified in Paragraph 9, above, is not deductible for federal tax purposes.

14. If Respondent does not timely pay 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 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). Respondent shall pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Respondent 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**

16. This CAFO settles U.S. EPA's claims for civil penalties for the violation alleged in the complaint.

17. Nothing in this CAFO shall restrict U.S. EPA's authority to seek Respondent's compliance with the Act and other applicable laws and regulations.

18. This CAFO does not affect Respondent'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 Respondent's "full compliance history" pursuant to Section 113(e) of the Act, 42 U.S.C. § 7413(e).

20. The terms of this CAFO bind Respondent, its officers, directors, agents, successors, authorized representatives, and assigns.

21. Each person signing this CAFO 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 shall bear its own costs and attorneys fees in connection with the action resolved by this CAFO.

23. The effective date of this CAFO will be the date on which it is signed by the Regional Administrator.

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

For Respondent, Village of Freeburg:

Allen L. Watters

Allen Watters, President  
Board of Trustees  
Village of Freeburg

Date: 9/20/99

For Complainant:

Margaret M. Guerriero

Margaret M. Guerriero, Acting Director  
Air & Radiation Division  
U.S. EPA, Region 5

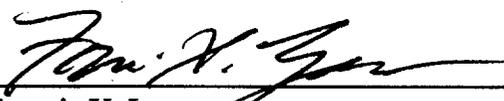
Date: Sept. 29, 1999

In the Matter of Village of Freeburg  
Docket No. 5-CAA-99-

**III. FINAL ORDER**

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is hereby ordered to comply with the terms of the above CAFO upon the effective date of this CAFO.

Date: 9/24/99

  
\_\_\_\_\_  
Francis X. Lyons  
Regional Administrator  
U.S. EPA, Region 5

RECEIVED  
REGIONAL HEARING

CERTIFICATE OF SERVICE

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 W. Jackson Boulevard, Chicago, Illinois 60604 and that correct copies, were mailed first-class, postage prepaid, certified mail, return receipt requested, to the Respondent and Respondent's Counsel by placing it in the custody of the United States Postal Service addressed as follows:

Allen Watters  
Village of Freeburg  
14 Southgate Center  
Freeburg, Illinois 62243

and

Gregory C. Nold, Esq.  
P.O. Box 99  
Freeburg, IL 62243

I also certify that copies of the Consent Agreement and Final Order were sent by First Class Mail to:

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 30<sup>th</sup> day of September, 1999.

  
Betty Williams, Secretary  
AECAS (IL/IN Section)

CERTIFIED MAIL RECEIPT NUMBER FOR Mr. Watters:

CERTIFIED MAIL RECEIPT NUMBER FOR Mr. Nold:

P140895457  
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