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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

'99 JUN -8 P2:27

In the Matter of: )  
)  
) Docket No. CAA-5-'99-009  
)  
)  
) ILLINOIS CEMENT COMPANY )  
) Consent Agreement and  
) LASALLE, ILLINOIS ) Consent Order  
)  
)  
)  
)  
) Respondent. )  
)  
\_\_\_\_\_ )

**CONSENT AGREEMENT**

1. The United States Environmental Protection Agency ("U.S. EPA") initiated this civil administrative proceeding for the assessment of a penalty pursuant to Section 113(d) of the Clean Air Act ("Act"), 42 U.S.C. § 7413(d), and Sections 22.01(a)(2) and 22.43 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. § 22.01(a)(2) and § 22.43.

2. Complainant is, by lawful delegation, the Director, Air and Radiation Division, Region 5, U.S. EPA.

3. Respondent is Illinois Cement Company, a joint venture, which at all times relevant to the Complaint maintained a place of business at 1601 Rockwell Road, LaSalle, Illinois.

4. Complainant filed a Complaint and Notice of Opportunity for Hearing on March 29, 1999, charging in four counts that Respondents violated Section 111 of the Act, 42 U.S.C. § 7411, and the New Source Performance Standards ("NSPS") for Portland Cement Plants at 40 C.F.R. § 60.62(c) and the NSPS for Nonmetallic Mineral Processing Plants at 40 C.F.R. § 60.670(b). Complainant sought a civil penalty of \$55,000.00.

5. In Count I, Complainant alleged that Respondent violated Section 111 of the Act and 40 C.F.R. § 60.62(c) by discharging gases into the atmosphere that exhibited 10 percent or greater opacity from the 433 Tail Pulley transfer point on October 28, 1998.

6. In Count II, Complainant alleged that Respondent violated Section 111 of the Act and 40 C.F.R. § 60.670(b) by discharging fugitive emissions into the atmosphere that exhibited greater than 10 percent opacity from the crusher discharge belt conveyor on October 28, 1998.

7. In Count III, Complainant alleged that Respondent violated Section 111 of the Act and 40 C.F.R. § 60.670(b) by discharging fugitive emissions into the atmosphere that exhibited greater than 10 percent opacity from the stacker feed belt transfer point on October 28, 1998.

8. In Count IV, Complainant alleged that Respondent violated Section 111 of the Act and 40 C.F.R. § 60.62(c) by discharging gases into the atmosphere that exhibited 10 percent or greater opacity from the 433 Tail Pulley transfer point on March 2, 1999.

9. Complainant and Respondent discussed settlement of this action in a teleconference on April 15, 1999. Respondent was represented by Shell J. Bleiweiss, attorney for Illinois Cement Company, Wayne W. Emmer, President, Frank Plummer, Project Engineer, and Jerry Rhineberger, Plant Manager, Illinois Cement Company. Complainant was represented by Christine M. Liszewski, Associate Regional Counsel, and Howard Caine, Environmental Engineer, U.S. EPA, Region 5.

10. The parties have agreed to settle this civil administrative action by entering into this Consent Agreement and Consent Order.

**NOW, THEREFORE,**

11. Respondent hereby admits the jurisdictional allegations in the Complaint.

12. Respondent admits the facts stipulated in the Consent Agreement.

13. Respondent waives its right to a hearing, as provided by Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2), and 40 C.F.R. § 22.15(c), and waives its right to a judicial review as provided by Section 113(d)(4) of the Act, 42 U.S.C. § 7413(d)(4).

14. Respondent certifies that it is now in compliance with the requirements of Section 111 of the Act, 42 U.S.C. § 7411, and the regulations at 40 C.F.R. Part 60, Subparts F and OOO.

15. In consideration of the good faith efforts of the Respondent to cooperate with the Complainant and Respondent's prompt correction of the alleged violations, Complainant has agreed to mitigate the proposed penalty from \$55,000.00 to \$41,250.00.

16. Respondents have agreed to pay a total mitigated civil penalty of \$41,250.00.

17. This Consent Agreement constitutes the entire agreement between Complainant and Respondent.

18. Respondent consents to the issuance of the Consent Order set forth below.

**CONSENT ORDER**

19. Respondent shall comply with the requirements of Section 111 of the Act, 42 U.S.C. § 7411, and the regulations at 40 C.F.R. Part 60, Subparts F and OOO.

20. Respondent shall pay the United States of America a civil penalty in the sum of \$41,250.00. Payment shall be made by certified or cashier's check payable to "Treasurer of the United States of America" within thirty (30) days of the filing of this Consent Agreement and Consent Order with the Regional Hearing Clerk. Such payment shall be remitted directly to:

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

A copy of the payment shall be mailed to the Regional Hearing Clerk (Mail Code E-19J), Christine M. Liszewski, Office of Regional Counsel (Mail Code C-14J) and Howard Caine, Air

and Radiation Division (Mail Code AE-17J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. A transmittal letter identifying the name and docket number should accompany both the remittance and the copies of the check.

21. On any amount overdue under paragraph 20, interest shall accrue on the debt at the rate established by the Secretary of the Department of Treasury, pursuant to 31 U.S.C. § 3717, and published in the Federal Register quarterly. A late payment handling charge of fifteen dollars (\$15.00) will be assessed after thirty (30) days, with an additional charge of fifteen dollars (\$15.00) for each subsequent 30-day period over which an unpaid balance remains. In addition, pursuant to 42 U.S.C. § 7413(d)(5)(B), any person who fails to pay an assessed civil penalty on a timely basis shall be required to pay the United States enforcement expenses, including but not limited to, attorneys fees and costs incurred by the United States for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists.

22. Respondent's failure to comply with the provisions of paragraph 20 may result in the referral of this matter to the Attorney General for collection. The validity, amount and appropriateness of the penalty is not subject to review in a collection proceeding, as stated at 42 U.S.C. § 7413(d)(5)(B).

23. Respondent shall not deduct the penalty payment made pursuant to this Consent Order from the amount it owes in Federal taxes.

24. This Consent Agreement and Consent Order shall be binding on Complainant, U.S. EPA, and Respondent, its officers, directors, employees, agents, successors and assigns.

25. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Consent Agreement and Consent Order.

26. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

27. This Consent Agreement and Order constitutes settlement by U.S. EPA of all claims for civil penalties pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d), for the violations alleged in the Complaint. Nothing in this Consent Agreement and Consent Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondents.

28. The parties to this agreement consent to the entry of this Order without further notice.

**IN THE MATTER OF: ILLINOIS CEMENT COMPANY  
CONSENT AGREEMENT AND CONSENT ORDER  
DOCKET NO. : CAA-5-'99-009**

Dated: 5/26/99

Shel J. Brini - Attorney  
for Wayne W. Emmer, President  
Illinois Cement Company  
1601 Rockwell Road  
LaSalle, Illinois 61301-0442

Dated: 6/4/99

Richard C. Karl  
Richard C. Karl, Acting Director  
Air and Radiation Division  
U.S. EPA, Region 5  
77 West Jackson Boulevard (A-18J)  
Chicago, Illinois 60604-3590

It is so ordered as agreed to by the parties and as stated in the Consent Agreement. This Order shall be effective upon filing with the Regional Hearing Clerk and shall resolve this proceeding pursuant to 40 C.F.R. § 22.18.

Dated: 6/7/99

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

**CERTIFICATE OF FILING AND MAILING**

RECEIVED  
JUN 8 1999

I, Betty Williams, do hereby certify that the original of the foregoing Consent Agreement and Consent Order (CACO), was filed with the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that a second original of the CACO was sent Certified Mail, Return Receipt Requested, to:

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PROC. CLERK

Wayne W. Ermer  
President  
Illinois Cement Company  
1601 Rockwell Road  
LaSalle, Illinois 61301-0442

and, mailed copies of the CACO issued to Illinois Cement Company by First Class Mail to:

Shell Bleiweiss, Esq.  
Chicago Bar Association Building  
321 South Plymouth Court  
Chicago, Illinois 60604-3990

David Kolaz, Chief  
Compliance and Systems Management Section  
Bureau of Air  
Illinois Environmental Protection Agency

Richard Jennings, Manager  
Region II  
Illinois Environmental Protection Agency

June 8, 1999  
Date

Betty Williams  
Betty Williams  
U.S. EPA, Region 5

Certified Mail Number: P140779126