



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 03 1999

REPLY TO THE ATTENTION OF
(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Carl Busse, President
R.I. Busse
1520 Midway Court
Elk Grove Village, Illinois 60007

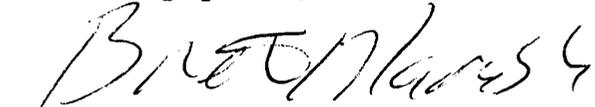
Re: R.I. Busse, Inc.
Docket No. 5-CAA-99-001

Dear Mr. Busse:

Enclosed is an executed original of the Consent Agreement and Consent Order (CACO). The CACO was filed with the Regional Hearing Clerk on MAR 05 1999. Payment instructions are located in paragraphs 9 and 10 of the CACO. The amount of the check should be for \$27,500. Payment is due thirty (30) days after receiving a copy of this CACO. Your check should display the case docket numbers 5-CAA-99-001 and the billing document number BD# 050399013.

If you have any questions please contact Bonnie Bush, of my staff, at (312) 353-6684, or Kevin Chow, of the Office of Regional Counsel, at (312) 353-6181.

Sincerely yours,



Brent Marable, Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Raymond T. Reott, Attorney
Jenner & Block
One IBM Plaza
Chicago, Illinois 60611-7602

Haresh Narayen, Acting Manager
Region 1
Illinois Environmental Protection Agency

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

RECEIVED
REGIONAL OFFICE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:) '99 MAR -5 111 :10
)
R.I. Busse, Inc.) Docket No. CAA-5-99-001
Elk Grove Village, Illinois) PROCEEDING
) Proceeding to Assess
) Administrative Penalties
Respondent.) under Section 113(d) of the
) Clean Air Act,
_____) 42 U.S.C. §7413(d)

CONSENT AGREEMENT AND CONSENT ORDER

Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), initiated this civil administrative proceeding for the assessment of a civil penalty pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. §7413(d), and Sections 22.01(a)(2) and 22.13 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and Revocation or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22, by issuing and filing an Administrative Complaint (Complaint) against Respondent, R.I. Busse, Inc.

I. PRELIMINARY STATEMENT

1. The Complaint alleges that Respondent violated Section 113(a)(3) of the CAA, 42 U.S.C. §7413(a)(3), and the New Source Performance Standards (NSPS), 40 C.F.R. Part 60, Subpart A (General Provisions), and NSPS Subpart 000

(Standards of Performance for Nonmetallic Mineral Processing Plants). Specifically, the Complaint alleges that visible emissions from Respondent's primary crusher exceeded the fifteen percent opacity limit set forth at 40 C.F.R. §60.672(c) for at least one six-minute average on July 23, 1998, and July 27, 1998; and Respondent failed to operate its primary crusher and associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions, on July 23, 1998, and July 27, 1998, in violation of 40 C.F.R. §60.11(d).

2. Complainant and Respondent have determined that this matter should be settled without a hearing or further proceedings, upon the terms set forth in this Consent Agreement and Consent Order. Respondent admits the jurisdictional allegations set forth in the Complaint and neither admits nor denies the factual allegations set forth in the Complaint.
3. Respondent waives its right to a hearing on the allegations of the Complaint.
4. This Consent Agreement and Consent Order shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.

5. Respondent certifies that it is in full compliance with 40 C.F.R. Part 60, Subpart A, and 40 C.F.R. Part 60, Subpart 000.
6. Respondent and Complainant consent to the terms of settlement set forth below.

II. TERMS OF SETTLEMENT

7. Based on the foregoing, and having taken into account the seriousness and duration of the violations, Respondent's full compliance history, degree of culpability, the lack of significant economic benefit or savings resulting from the violations, the size of Respondent's business and the economic impact of the penalty on the business, and Respondent's good faith efforts to comply (including initiation of prompt measures to address the alleged violations), Complainant has determined that an appropriate total civil penalty to settle this action is in the amount of twenty-seven thousand, five hundred dollars (\$27,500).
8. Respondent consents to the issuance of this Consent Agreement and consents for the purposes of settlement to the payment of the civil penalty cited in the foregoing paragraph.
9. Within thirty (30) days of receiving a copy of this Consent Agreement and Consent Order signed by the Acting Regional Administrator, U.S. EPA, Region 5, Respondent shall submit a cashier's or certified check in the amount of twenty-seven

thousand, five hundred dollars (\$27,500), payable to the
"Treasurer, United States of America," to:

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

10. A transmittal letter, providing Respondent's name, complete address, the case docket number and the billing document number must accompany the payment. The case docket number and the billing document number shall also be included 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

Kevin Chow, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

11. The penalty specified in Paragraph 7, above, shall represent civil penalties assessed by U.S. EPA and shall not be deductible for purposes of Federal taxes.
12. Interest shall accrue on any amounts overdue under the terms of this Consent Agreement and Consent Order at the rate established by the Secretary of the Treasury, pursuant to

31 U.S.C. §3717. In addition, a late payment handling charge of \$15.00 will be imposed if payment is not made within sixty (60) days after the Complainant files a fully executed copy of this Consent Agreement and Consent Order with the Regional Hearing Clerk, with an additional charge of \$15.00 for each subsequent 30-day period over which an unpaid balance remains.

13. This Consent Agreement and Consent Order constitutes a release and settlement by U.S. EPA of all claims ("Settled Claims") for civil penalties pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), for: (1) the Clean Air Act violations alleged in Count I of the Complaint, and (2) the Clean Air Act violations alleged in Count II of the Complaint, through September 23, 1998. Compliance with this Consent Agreement and Consent Order shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by U.S. EPA, except for any actions by U.S. EPA asserting the allegations resolved by this Consent Agreement and Consent Order, and it is the responsibility of Respondent to comply with such laws and regulations.
14. Respondent's failure to comply with any provision of this Consent Agreement and Consent Order may subject Respondent to a civil action pursuant to Section 113(d)(5) of the Act, 42 U.S.C. §7413(d)(5), to collect any unpaid portion of the civil penalty, together with interest,

handling charges, and nonpayment penalties as set forth in Paragraph 12 above. In any such collection action, the validity, amount, and appropriateness of this Order or the penalty assessed hereunder are not subject to review.

15. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of U.S. EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or for any other violation of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any other applicable provision of law.
16. Nothing in this Consent Agreement and Consent Order shall relieve Respondent of the duty to comply with all applicable provisions of the Clean Air Act and other Federal, State and local laws and statutes.
17. Each undersigned representative of each party to this Consent Agreement and Consent Order certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms of this Consent Agreement and Consent Order and to bind that party to such terms.
18. This Consent Agreement and Consent Order constitutes the entire agreement between Complainant and Respondent.
19. The parties to this agreement consent to the entry of this Consent Agreement and Consent Order without further notice.
20. Each party shall bear its own costs, fees and disbursements in this action.

21. This is a "final order" for purposes of the "enforcement response" policy set forth in U.S. EPA penalty policies.

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

Date: 3-2-99

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

R.I. Busse, Inc., Respondent

Date: 2/20/99

By: 
Carl Busse, President
R.I. Busse, Inc.

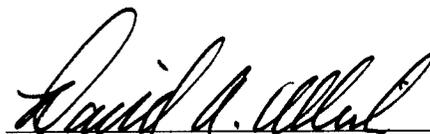
CONSENT AGREEMENT AND CONSENT ORDER
R.I. Busse, Inc.
Docket No. CAA-5-99-001

III. ORDER

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

Date: _____

3/3/89



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

RECEIVED
REGIONAL HEARING

CERTIFICATE OF FILING AND MAILING

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

Carl Busse, President
R.I. Busse, Inc.
1520 Midway Court
Elk Grove Village, Illinois 60007

I also certify that copies of the CACO were sent by first class mail to:

Raymond T. Reott, Attorney
Jenner & Block
One IBM Plaza
Chicago, Illinois 60611-7602

Haresh Narayen, Acting Manager
Region 1
Illinois Environmental Protection Agency

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

on the 5th day of March, 1999.

Betty Williams
Betty Williams, Secretary
AECAS (IL/IN)

Certificate Numbers: P140894 308