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

APR 2 6 2012

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Kevin Johnson
Stoel Rives LLP
33 South Sixth Street, Suite 4200
Minneapolis, Minnesota 55402

Dear Mr. Johnson:

Enclosed is an Administrative Consent Order which resolves Case Docket No. EPA-5-12-113(a)-MN-01.

Please direct any questions regarding this case to Steven Kaiser, Associate Regional Counsel, 312.353.3804.

Sincerely,

William MacDowell, Chief
Air Enforcement and Compliance Assurance Section
(MN/OH)

Enclosure

cc: Steven Kaiser/C-14J
Jeff T. Connell, MPCA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	Administrative Consent Order
	)	
City of Red Wing, Minnesota	)	EPA-5-12-113(a)-MN-01
	)	
	)	Proceeding pursuant to Sections 113(a)(3)
	)	and 114(a)(1) of the Clean Air Act, 42
	)	U.S.C. §§ 7413(a)(3) and 7414(a)(1)
	)	

Administrative Consent Order

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency, Region 5, is issuing this Order to the City of Red Wing, owner of the Red Wing Solid Waste Boiler Facility (Red Wing SWBF), under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (CAA or the Act), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

Statutory and Regulatory Background

2. Section 110 of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to the Administrator of EPA (Administrator) a plan which provides for the implementation, maintenance and enforcement of all national primary and secondary standards established pursuant to Section 109 of the CAA, 42 U.S.C. § 7409. These plans, referred to as State Implementation Plans (SIPs), are required to include enforceable emission limitations, control measures, schedules for compliance, and permit programs for new sources.

3. Section 110(c) of the CAA, 42 U.S.C. § 7410(c), requires the Administrator to promulgate federal implementation plans (FIPs) where the state has failed to make a required submission, the Administrator has found that the plan or plan revision submitted by the State

does not satisfy the minimum criteria established, or the Administrator has disapproved a SIP submission in whole or in part.

4. On January 31, 2003, EPA promulgated the Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999 at 40 C.F.R. Part 62, Subpart JJJ, §§ 62.1500 - 62.15410 (the Small MWC FIP). 68 Fed. Reg. 5144 (Jan. 31, 2003). The State of Minnesota has not promulgated a comparable regulation for small municipal waste combustion units. The requirements of the Small MWC FIP are applicable to small municipal waste combustion units constructed on or before August 30, 1999, and located in the State of Minnesota including the Red Wing SWBF.

5. Pursuant to the provisions of the Small MWC FIP found at 40 C.F.R. § 62.15160(a)(2) and in Table 4, the owner or operator of a Small Class II MWC Unit must comply with the front-half particulate matter emission standard of 70 milligrams per dry standard cubic meter corrected to 7 percent oxygen (mg/dscm @ 7% O_2) once the initial stack test and continuous emission monitoring system evaluation has been either required or completed (whichever is earlier).

6. Pursuant to 40 C.F.R. § 62.15045(a) and Table 1 of the Small MWC FIP, the owner or operator of a Small Class II MWC Unit must achieve final compliance with the Small MWC FIP no later than May 6, 2005.

7. Pursuant to 40 C.F.R. § 62.15240(a), the owner or operator of a Small Class II MWC Unit must conduct the initial stack test no later than 180 days after the final compliance date, May 6, 2005.

8. Pursuant to 40 C.F.R. § 62.15165(d), the owner or operator of a Small Class II MWC Unit must comply with all provisions of 40 C.F.R. § 60.11(d).

9. Pursuant to 40 C.F.R. § 62.15160(a)(2), the City of Red Wing was required to comply with the emission limits in Table 4 by November 6, 2005, a date no later than 180 days after May 6, 2005.

10. Under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating a FIP.

Findings

11. The City of Red Wing, Minnesota (City of Red Wing) owns and operates the Red Wing SWBF, a Small Class II MWC Unit at 1873 Bench Street, Red Wing, Minnesota. The Red Wing SWBF was constructed in 1982, a date on or before August 30, 1999.

12. The Red Wing SWBF has the capacity to combust approximately 96 tons of MSW per day. A facility with the capacity to combust between 35 and 250 tons of MSW per day is subject to the Small MWC FIP at 40 C.F.R. § 62.15160(a) and Table 4 of the Small MWC FIP.

13. On April 27-28, 2011, Pace Analytical Inc. (Pace Analytical) conducted three runs of Reference Method (RM) 5 on emissions from the Red Wing SWBF. The average particulate matter emission concentration during the three runs was 87 mg/dscm @ 7% O_2, in

excess of the limit of 70 mg/dscm @ 7% O_2 established in the Small MWC FIP and Red Wing SWBF's Title V permit.

14. On June 16, 2011, Pace Analytical conducted three runs of RM 5 on emissions from the boiler at the Red Wing SWBF. The average particulate matter emission concentration during the three runs was 48.2 mg/dscm @ 7% O_2, in compliance with the limit of 70 mg/dscm @ 7% O_2 established in the Small MWC FIP and Red Wing SWBF's Title V permit.

15. On August 3, 2011, EPA issued to the Red Wing SWBF a Notice and Finding of Violation alleging that it violated the Clean Air Act, the Small MWC FIP, and its Title V Permit when its air emissions exceeded the average particulate matter emission concentration limit established in the Small Municipal Waste Combustion FIP and Red Wing's Solid Waste Boiler Facility Title V Permit.

16. On numerous occasions since August 3, 2011, representatives of the EPA and the City of Red Wing discussed the Notice and Finding of Violation.

17. The City of Red Wing violated the CAA when between April 27, 2011, and June 16, 2011, air emissions from the Red Wing SWBF exceeded the average particulate matter emission concentration limit established in the Small MWC FIP.

18. Particulate emissions, specifically emissions of fine particulate matter, contribute to respiratory problems, lung damage and premature deaths.

Compliance Program

19. By the effective date of this Order, the City of Red Wing must achieve, demonstrate, and maintain compliance with the Small MWC FIP and 40 C.F.R. § 60.11(d) at the Red Wing SWBF.

20. Within forty-five days of the effective date of this order, City of Red Wing must submit an application for a permit modification that incorporates the revised operating procedures found in Attachment A. Within 10 days of submitting the permit modification application to the Minnesota Pollution Control Agency, the City of Red Wing must submit copies of the application to EPA.

21. Within one year of the effective date of this order, City of Red Wing must obtain a permit modification that incorporates the revised operating procedures found in Attachment A. The permit provision must require that City of Red Wing operate in accordance with the operating procedures found in Attachment A at all times, including during periods of startup, shutdown, and malfunction. Within 10 days of receiving the final permit from MPCA, the City of Red Wing must submit copies of the permit to EPA.

22. The City of Red Wing must send all submissions and reports required by this order to:

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 60604-3511

Steven P. Kaiser, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

General Provisions

23. This Order does not affect the City of Red Wing's responsibility to comply with other local, state, and federal laws and regulations.

24. This Order does not restrict EPA's authority to enforce the FIP, or any other section of the Act.

25. Nothing in this Order limits EPA's authority to seek appropriate relief, including penalties under Section 113 of the Act, 42 U.S.C. § 7413, for the City of Red Wing's violation of the Small MWC FIP.

26. Failure to comply with this Order may subject the City of Red Wing to penalties of up to $37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

27. The terms of this Order are binding on the City of Red Wing, its assignees and successors. The City of Red Wing must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to EPA, at the above address, that the City of Red Wing has given the notice.

28. The City of Red Wing may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information

subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If the City of Red Wing fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

29. EPA may use any information submitted under this Order in an administrative, civil or criminal action.

30. The City of Red Wing, Minnesota stipulates that the EPA has jurisdiction over the subject matter of this Order, and waives any jurisdictional defenses to EPA's enforcement of it. The City neither admits nor denies the Findings listed above, and agrees to be bound by the terms of this Order.

31. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate one year from the effective date, provided that the City of Red Wing has complied with all terms of the Order throughout its duration.

In the Matter of: City of Red Wing, Minnesota, owner of the Red Wing Solid Waste Boiler Facility

4-24-2012
Date

Dennis Egan, Mayor
City of Red Wing, Minnesota

4/23/2012
Date

Kay Kuhlmann, Council Administrator
City of Red Wing, Minnesota

04/23/2012
Date

Kathy Seymour Johnson, City Clerk
City of Red Wing, Minnesota

4/26/12
Date

George Czerniak, Acting Director
Air and Radiation Division

APPENDIX A:
Standard Operating Procedures for City of Red Wing Air Permit Administrative Amendment

PRIMARY UNIT FEED PROCEDURES

1. Prior to feeding waste into the primary units, each feed shall be derived from a mixture of processed and unprocessed waste to achieve appropriate levels of moisture and density. Due to the numerous variables that may affect the conditions within the primary units, such as seasonal variations, waste composition and relative humidity, proper mixing is best determined by the Operator's visual evaluation of the feedstock and existing conditions within the primary units. Operators are responsible for monitoring the conditions within the primary units by visual observation during each hourly inspection.

2. Each feed shall be weighed and recorded to ensure feed weights fall within an approximate range of 300 to 650 pounds per feed. Feeds are placed in the "feed chute" in an even blanket and then inspected for prohibited materials. This process will apply to every feed and, in the event that prohibited materials are discovered in the feed, these materials will be removed prior to introduction to the units using proper lifting procedures.

3. Operators are to feed both primary units every 10 minutes unless conditions dictate otherwise. Number of feeds and feed weights are recorded and typical daily combustion tonnages should range from 50 to 80 tons per day. This wide variation in feedstock is largely a byproduct of inconsistent waste deliveries from local waste haulers.

MEASURES TO PREVENT ELEVATED PM LEVELS

1. Determining upset conditions that may lead to elevated PM levels

Operators shall be trained to identify conditions that indicate the potential for "upset" conditions. Upset conditions can be characterized by:

a. Intensely bright flames
b. Low ash bed levels
c. Temperatures above 1700°F in the primary units
d. Air flow volumes above 16,000 SCFM
e. Negative pressure levels below -15 in the gas suspension absorber (GSA)

2. Actions to take when upset conditions have been identified

When upset conditions have been identified, Operators will take the following appropriate measures to mitigate these conditions immediately:

a. Operators will turn off or delay timing of ash ejectors to begin rebuilding ash bed levels.
b. Ash bed levels will also be reestablished by increasing the amount of waste added to the primary units by adjusting the feed rate timers.
c. Water will be added as needed to the primary units to reduce the volatility within the primary units as needed.
d. Monitor the air flow volumes to ensure these volumes do not exceed 16,000 SCFM. Should these levels exceed 16,000 SCFM the Operator will implement steps 3a through 3b, below.
e. Monitor the negative pressure levels in the GSA. Should these levels drop below -15 the Operator will implement steps 4a through 4c, below.

3. Actions to take when air flow volumes above 16,000 SCFM have been identified

Upset conditions can often manifest themselves in elevated temperatures throughout the system. Elevated temperatures can in turn result in increased air flow volumes. The GSA control panel measures air flow in SCFMs within the GSA. Elevated air flow volumes may be related to an increase in the presence of Particulate Matter (PM) and decreased residence time within the Electro Static Precipitator (ESP). In the event that "upset" conditions are detected, the Operators will:

a. Attempt to manage the conditions that may lead to the generation of elevated PM levels by implementing steps 2a through 2c, above.
b. Reduce the BF3 damper setting to reduce air flow volumes to below 16,000 SCFM and increase the residence time within the ESP.

4. Actions to take when negative pressure levels below -15 have been identified

Another method for detecting the possibility of elevated air flow volumes is monitoring the water column pressures within the GSA. The GSA is negatively pressured and as the pressure levels decrease the air flow levels increase as there is an inverse relationship between the negative pressure and air flow volumes. Extremely low negative pressure readings indicate an increased air flow. Operators shall monitor the pressure readings and record these on an hourly basis. In the event that pressures drop below -15, the Operator will:

a. Reduce the BF3 damper setting to increase the pressure level above -15
b. Reduce air flow volumes to slow the air flow and increase the residence time within the ESP
c. Monitor the primary units to ensure ash bed levels are appropriate and flame activity is lazy and dull in appearance.

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent the Administrative Consent Order, EPA Order No. EPA-5-12-113(a)-MN-01, by Certified Mail, Return Receipt Requested, to:

Mr. Kevin Johnson
Stoel Rives LLP
33 South Sixth Street, Suite 4200
Minneapolis, Minnesota 55402

I also certify that I sent a copy of the Administrative Consent Order, EPA Order No. EPA-5-12-113(a)-MN-01, by First Class Mail to:

Jeff T. Connell, Manager
Compliance and Enforcement Section
Industrial Division
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155-4194

on the 4 day of May 2012.

Loretta Shaffer
Administrative Program Assistant

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7609 6913