



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

FEB 26 2009

REPLY TO THE ATTENTION OF:

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

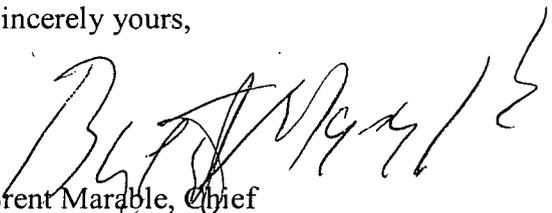
Paul Hartman
Utilities Superintendent
Logansport Municipal Utilities
City Building
601 East Broadway #101
Logansport, Indiana 46947-3186

Re: Logansport Municipal Utilities
Logansport, Indiana
Administrative Consent Order EPA-5-08-113(a)-01-IN

Dear Mr. Hartman:

Enclosed is an executed original of the Administrative Consent Order regarding the above captioned case. If you have any questions about the Order, please contact me at 312-886-6812.

Sincerely yours,


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

Enclosure: Administrative Consent Order EPA-5-08-113(a)-01-IN

cc: Phil Perry, Chief
Office of Enforcement Air Section
Indiana Department Environmental Management

Dan Hancock, Senior Environmental Manager
Office of Air Quality/Compliance Branch
Indiana Department Environmental Management

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

FEB 26 2009

IN THE MATTER OF:) EPA-5-08-113(a)-01-IN
)
Logansport Municipal Utilities) Proceeding Under Sections 113(a)(3),
Logansport, Indiana) 114(a)(1) of the Clean Air Act,
) 42 U.S.C. §§ 7413(a)(3), 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 Administrative Consent Order (Order) to Logansport Municipal Utilities (Logansport) in Logansport, Indiana under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (the Act), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

Statutory and Regulatory Background

2. Section 110 of the Act, 42 U.S.C. § 7410, requires States to adopt, and submit to EPA for approval, State Implementation Plans (SIPs) providing for the implementation, maintenance and enforcement of the National Ambient Air Quality Standards (NAAQS) promulgated by EPA pursuant to Section 109 of the Act, 42 U.S.C. § 7409. EPA has promulgated NAAQS for, among other pollutants, particulate matter.

3. Pursuant to 40 C.F.R. § 52.23, failure to comply with any approved regulatory provision of a SIP, or with any permit condition issued pursuant to approved or promulgated regulations for the review of new or modified stationary or indirect sources, renders the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under Section 113 of the Act, 42 U.S.C. § 7413.

4. EPA approved Title 326 of the Indiana Administrative Code (326 IAC) 5-1-2, governing opacity, as part of the Indiana SIP. 326 IAC 5-1-2 has a federal effective date of April 16, 1997 (62 Fed. Reg. 18523).

5. 326 IAC 5-1-2(1)(A) and (B) of the Indiana SIP states:

a. 326 IAC 5-1-2(1)(A) - Visible emissions shall not exceed an average of forty percent (40%) opacity in twenty four (24) consecutive readings.

b. 326 IAC 5-1-2(1)(B) - Visible emissions shall not exceed sixty percent (60%) opacity for more than a cumulative total of fifteen (15) minutes (sixty (60) readings) in a six (6) hour period.

6. Under Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating a SIP. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

7. The Administrator of EPA may require any person who owns or operates an emission source to provide information required by the Administrator under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

8. 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 any requirement of an information request issued under Section 114 of the Act (Section 114 Request). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

9. Logansport owns and operates two coal-fired boilers at 8th and Race Streets in Logansport, Indiana (facility). The boilers are identified as Units #5 and #6.

10. Logansport owns or operates an "emission source" within the meaning of Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). Therefore, Logansport is subject to the requirements of Section 114(a)(1).

11. On September 19, 2008, the Director of the Air and Radiation Division, EPA, Region 5, issued a Notice of Violation (NOV) and Finding of Violation (FOV) alleging violations of the Indiana SIP, Section 113 of the Clean Air Act and Logansport's Title V permit.

12. Logansport was cited for exceeding their 40% and 60% opacity limits at their Units #5 and #6 stacks, which is a violation of 326 IAC 5-1-2(1)(A) and (B) of the Indiana SIP, Section 113 of the Act and Parts C.2(a) and (b) of the facility's Title V operating permit T017-7478-00006.

13. The alleged violations stem from EPA inspector visible emission readings conducted in accordance with 40 C.F.R. Part 60, Appendix A, Method 9 on July 1, 2008. At the Units #5 and #6 stacks, from 10:38 to 11:08 AM, six-minute average opacity readings of 72.1%, 72.9%, 78.5%, 81.3% and 79.4% were recorded.

14. On October 30, 2008, representatives of Logansport and EPA met to discuss the NOV/FOV issued on September 19, 2008.

Compliance Program

15. Effective January 1, 2009, Logansport must obtain and burn low-sulfur coal with a contract specification no greater than eight-tenths percent (0.80%) sulfur for at least 12 months following entry of this Order.

16. Effective 12 months after the entry of the Order and until December 31, 2013, Logansport must obtain and burn low-sulfur coal with a contract specification no greater than one and five-tenths percent (1.50%) sulfur and meet a monthly composite as-fired coal analysis not to exceed 1.50% sulfur.

17. For the duration of this Order, Logansport shall provide a copy to EPA of coal contract changes to fuel specifications within 30 days of making such change.

18. No later than March 1, 2009, Logansport shall have a signed contract with their coal supplier that requires the coal supplier to pay a penalty when coal supplied to Logansport exceeds a monthly composite percent sulfur content as specified in Paragraphs 15 or 16.

19. Effective March 1, 2009, Logansport must take all appropriate action against its coal supplier, including but not limited to pursuing and obtaining penalties from that coal supplier, if the monthly composite percent sulfur of coal received in any particular month exceeds the limits specified in Paragraphs 15 or 16. Logansport agrees that it will direct any penalties recovered from its coal supplier due to a violation of the monthly composite percent sulfur of coal burned to the environmental mitigation projects discussed in Paragraph 26 of this Order to be added to the \$400,000 amount specified in Appendix A.

20. Within 60 days of the effective date of this Order, Logansport must submit a permit modification request to the Indiana Department of Environmental Management (IDEM) to require Logansport to use low-sulfur coal in Units #5 and #6, with an as-fired sulfur content not to exceed one and five-tenths percent (1.50%) sulfur.

21. Logansport must provide EPA with a copy of the permit modification application required by Paragraph 20, above, within 30 days of submitting that application to IDEM.

22. Until the termination of this Order, Logansport must provide EPA with monthly composite coal analysis reports, which report at minimum the quantity of coal burned (tons), the sulfur percentage (reported to hundredth of a percent), ash percentage, heat content (BTU/lb) and calculated lb/mmBTU sulfur dioxide (SO₂) emission rates.

23. Logansport will submit the monthly composite coal analysis reports to EPA according to the following schedule: First, for the period of the year following the effective date of this Order, within 30 days of the end of each month, Logansport will submit monthly composite coal analysis reports on a monthly basis. If Logansport is compliant with their percent sulfur limit for the duration of the year, Logansport will then submit monthly composite coal analysis reports on a quarterly basis within 30 days of the end of each quarter; otherwise Logansport will continue to submit monthly composite coal analysis reports on a monthly basis.

24. Effective January 1, 2009, Logansport shall maintain continuous compliance with 326 IAC 5-1-2(1)(A) and (B) of the Indiana SIP.

25. Prior to March 30, 2009, at Units #5 and #6, Logansport shall perform SO₂, nitrogen oxide (NO_x) and sulfuric acid/sulfur trioxide (H₂SO₄/SO₃) stack testing in accordance with applicable EPA performance test methods, namely Method 19 and Method 8, respectively. When performing the Method 8 test, Logansport shall additionally collect and measure ammonia concentrations or levels in the first impinger. The stack tests shall be performed at maximum capacity while firing coal representative of the highest sulfur content coal burned at the plant.

Logansport shall also arrange that certified IDEM or EPA personnel perform visible emission observations, concurrently with the stack tests, in accordance with 40 C.F.R. Part 60, Appendix A, Method 9, which in part states that opacity observations shall be made at the point of greatest opacity in that portion of the plume where condensed water vapor is not

present. Visible emission observations shall be performed to the extent that meteorological conditions allow.

a. At least 30 days prior to performing the stack tests, Logansport shall submit the test protocol for review and approval by EPA and IDEM, and include the proposed test dates. To expedite approval, Logansport shall submit the test protocol electronically to EPA (specifically Monica Onyszko) in addition to the method found in Paragraph 29;

b. Logansport shall consider any proposed changes to the test protocol provided by EPA or IDEM; and

c. Within 30 days of completion of the stack test, Logansport shall submit the stack test results to EPA and IDEM.

d. When a coal contract change for sulfur increases by more than ten percent (10%), Logansport shall perform SO₂ and H₂SO₄/SO₃ stack testing and conduct visible emission observations as described in this paragraph within 60 days of commencing burning of such coal.

26. Logansport shall expend at least \$400,000 for environmentally beneficial projects in accordance with the requirements of Appendix A of this Order.

27. Logansport shall certify for each environmentally beneficial project specified in Appendix A that it is not otherwise required by law to perform the project.

28. For the environmental mitigation projects specified in Appendix A, Logansport must submit calendar year semi-annual progress reports reporting the status of implementing all mitigation projects, including:

- a. Actual or estimated emission reductions for the projects completed during the time period being reported for carbon dioxide (CO₂), SO₂, NO_x and particulate matter (PM), and
- b. Dollars expended in the time period being reported for each category of projects.

Such reports shall be submitted by July 30 and January 30.

29. Logansport must submit all materials 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

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

30. Logansport shall keep records of all reports submitted to EPA and all documents supporting those reports for at least one year after the termination of this Order.

General Provisions

31. This Order does not affect Logansport's responsibility to comply with other federal, state and local laws.

32. This Order does not restrict EPA's authority to enforce Section 114 of the Act, or any other section of the Act.

33. Failure to comply with this Order may subject Logansport to penalties of up to \$32,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413 and 40 C.F.R.

Part 19.

34. The terms of this Order are binding on Logansport, its assignees and successors. Logansport 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 it has given the notice.

35. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. EPA may use any information submitted under this Order in an administrative, civil judicial or criminal action.

36. Logansport agrees to the terms of this Order.

37. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate on December 31, 2013 provided that Logansport has complied with all terms of the Order throughout its duration.

02/12/2009
Date

Paul S. Hartman
Paul Hartman, Utilities Superintendent
Logansport Municipal Utilities

2/26/09
Date

[Signature] ACTING
Cheryl L. Newton, Director
Air and Radiation Division

Appendix A

Mitigation Projects

1. As part of the settlement terms of the Administrative Consent Order, Logansport shall undertake environmental mitigation projects at a minimum expenditure of \$400,000.

a. Logansport shall expend at least \$200,000 (\$50,000 per year over the four-year period January 1, 2009 through December 31, 2012) for conducting energy audits at its industrial, commercial and/or residential customers, including submittal of recommendations of energy efficiency improvements;

b. Logansport shall expend at least \$120,000 (\$30,000 per year over the four-year period January 1, 2009 through December 31, 2012) for implementing energy conservation and efficiency improvements, including for its low-income residential customers;

c. Logansport shall expend at least \$80,000 (\$20,000 per year over the four-year period January 1, 2009 through December 31, 2012) for implementing energy conservation and efficiency improvements at municipal buildings or infrastructure (e.g., traffic and/or street lights).

2. Logansport must submit to EPA within 90 days of execution of this Order, a more detailed plan for implementation of the environmental mitigation projects described above.

Logansport shall consider any comments received from EPA in finalizing implementation plans.

3. If Logansport determines that it cannot satisfy the environmental mitigation project expenditures committed to above in any particular year, it shall submit to EPA for review and approval alternative environmental mitigation projects to satisfy the specified expenditure amounts.

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent the executed Administrative Consent Order,
EPA Order No. EPA-5-09-113(a)-01-IN, by Certified Mail, Return Receipt Requested, to:

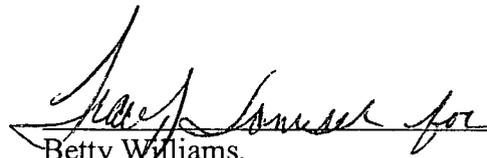
Paul Hartman
Utilities Superintendent
Logansport Municipal Utilities
City Building
601 E. Broadway #101
Logansport, Indiana 46947-3186

I also certify that I sent a copy of the executed Administrative Consent Order, EPA Order
No. EPA-5-09-113(a)-01-IN, by First Class Mail to:

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

Dan Hancock, Senior Environmental Manager
Office of Air Quality/Compliance Branch
Indiana Department Environmental Management
100 North Senate Avenue, Room IGCN 1003
Indianapolis, Indiana 46204

on the 27 day of February 2009.


Betty Williams,
Administrative Program Assistant,
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0186 0637