



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

JAN 05 2011

REPLY TO THE ATTENTION OF:

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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

Dear Mr. Johnson:

I have enclosed an original signed Administrative Consent Order ("ACO") which is a necessary part of resolving case docket number EPA-5-11-113(a)-MN-01 with the Red Wing Solid Waste Boiler Facility ("Red Wing SWBF"). A copy of an original was inadvertently sent in a mailing dated December 29, 2010 from EPA to the Red Wing SWBF.

If you have any questions regarding this case, please contact Steven Kaiser, Associate Regional Counsel at (312) 353-3804.

Sincerely,

A handwritten signature in black ink that reads "William L. MacDowell".

William L. MacDowell, Chief
Minnesota/Ohio Air Enforcement and Compliance Assurance Section

cc: Jeff T. Connell, Minnesota Pollution Control Agency

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:) Administrative Consent Order
)
Red Wing Solid Waste Boiler Facility) EPA-5-11-113(a)-MN-01
Red Wing, Minnesota)
)
Proceeding pursuant to Sections 113(a)(3) and)
114(a) 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 Red Wing Solid Waste Boiler Facility (Red Wing SWBF) under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

Statutory and Regulatory Background

2. Pursuant to Sections 111 and 129 of the Act, the Administrator promulgated the Federal Plan Requirements for Small Municipal Waste Combustion (MWC) Units Constructed On or Before August 30, 1999, 40 C.F.R. 62, Subpart JJJ (hereinafter, the Small MWC FIP) at 40 C.F.R. §§ 62.15000 through 15410. The Small MWC FIP applies to municipal waste combustion units with the capacity to burn between 50 and 250 tons of municipal solid waste (MSW) per day. A Small Class II MWC Unit is located at a MWC plant with aggregate plant combustion capacity less than or equal to 250 tons per day of MSW.
3. 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.
4. 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.
5. Pursuant to 40 C.F.R. § 62.15160(a), after the date the initial stack test and continuous emission monitoring system evaluation are required or completed (whichever is earlier), the owner or operator of a Small Class II MWC Unit must comply with the following emission standards for cadmium and mercury set forth at 40 C.F.R. § 62.15160(a)(2) and Table 4 of the Small MWC FIP:

- a. For cadmium, 0.10 milligram per dry standard cubic meter corrected to 7 percent oxygen (mg/dscm @ 7% O₂).
 - b. For mercury, 0.080 mg/dscm @ 7% O₂ or 85% reduction of potential mercury emissions.
6. Pursuant to 40 C.F.R § 60.11(d), at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions.
7. Pursuant to 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 the Small MWC FIP. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

8. The Red Wing SWBF owns and operates a Small Class II MWC Unit at 1873 Bench Street, Red Wing, Minnesota.
9. The Red Wing SWBF has the capacity to combust approximately 96 tons of MSW per day. Therefore, the Red Wing SWBF is subject to the Small MWC FIP at 40 C.F.R. § 62.15160(a) and Table 4 of the Small MWC FIP.
10. The Red Wing SWBF 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, the Red Wing SWBF is subject to the requirements of Section 114(a)(1).
11. Pursuant to 40 C.F.R § 62.02(b)(2), the good air pollution control practice set forth in 40 C.F.R § 60.11(d) applies to the Red Wing SWBF.
12. On September 30, 2009, EPA issued to the Red Wing SWBF a Finding of Violation alleging that (1) the Red Wing SWBF violated the Small MWC FIP by discharging into the atmosphere gases that contained cadmium in excess of 0.10 mg/dscm @ 7% O₂ and mercury in excess of 0.080 mg/dscm @ 7% O₂ and (2) the Red Wing SWBF violated 40 C.F.R. 60.11(d) through the routine use of its dump stack as part of the shutdown procedure.
13. On November 5, 2009, representatives of the Red Wing SWBF and EPA discussed the September 30, 2009, Finding of Violation.

Compliance Program

14. By the effective date of this Order, the Red Wing SWBF must achieve, demonstrate, and maintain compliance with the Small MWC FIP and 40 C.F.R. 60.11(d) at its Red Wing, Minnesota, facility.
15. The Red Wing SWBF must sort in the front-end fuel-cleaning facility (FEFCF) all municipal solid waste that it combusts, unless the Red Wing SWBF determines that the FEFCF cannot process some or all of the waste. The Red Wing SWBF will keep a record of the amount of waste that the FEFCF does not process and the reason for the determination. The sorting by the FEFCF will target the following materials for removal:
 - a. Large metal items;
 - b. Household hazardous waste, ballasts, compact fluorescents and fluorescent light bulbs that are intact;
 - c. Hazardous waste;
 - d. Tires;
 - e. Medical waste (Red Bag);
 - f. Yard waste (grass clippings, brush, woody items, Christmas trees);
 - g. Batteries (rechargeable, button, lead acid, vehicle/boat/motorcycle/auto/truck, etc.);
 - h. Electronic components (stereos, speakers, computers, radios, phone monitors, etc.);
 - i. Appliances (microwaves, coffee makers, electric fry pans, humidifiers, heaters, etc.);
 - j. Furniture (mattresses, chairs, box springs, futons, tables, etc);
 - k. Construction and demolition materials (concrete, drywall, plywood, plastic sheeting, lumber, treated lumber, roofing materials, etc.);
 - l. Oils and liquids;
 - m. Bulky items (large sheets of cardboard, large pieces of film plastic, shrink wrap);
 - n. Large containers (LP, natural gas, compressed gas, barrels, 5-gallon buckets); and,
 - o. Recyclable commodities such as plastic beverage containers, aluminum, cardboard and steel food containers.
16. The dump stack will not be used during routine shutdown of the MWC unit, but only for emergencies such as breakdowns or malfunctions.

General Provisions

17. This Order does not affect the Red Wing SWBF's responsibility to comply with other local, state, and federal laws and regulations.
18. This Order does not restrict EPA's authority to enforce Section 111 of the Act, or any

other section of the Act.

19. 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 Red Wing SWBF's violation of the Small MWC FIP.
20. Failure to comply with this Order may subject the Red Wing SWBF to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413.
21. The terms of this Order are binding on the Red Wing SWBF, its assignees and successors. The Red Wing SWBF 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 Red Wing SWBF has given the notice.
22. 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. To aid in our electronic record keeping efforts, please provide your response to this Order without staples. Paper clips, binder clips, and 3-ring binders are acceptable.
23. EPA may use any information submitted under this Order in an administrative, civil or criminal action.
24. The Red Wing SWBF agrees to the terms of this Order.
25. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate 1 year from the effective date, provided that the Red Wing SWBF has complied with all terms of the Order throughout its duration.

12/18/10
Date

12/13/2010
Date

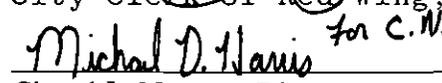
12/21/10
Date



John Howe
Mayor of Red Wing, Minnesota



Kathy Seymour Johnson
City Clerk of Red Wing, Minnesota



Michael D. Harris for C.N.
Cheryl L. Newton, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent the Administrative Consent Order, EPA Order

No. 5-10-113(a)-MN-01, by Certified Mail, Return Receipt Requested, to:

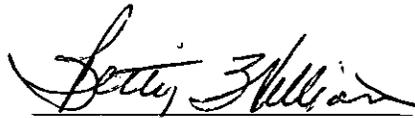
Mr. Kevin Johnson
Stoel Rives LLP
33 South Sixth Street, Suite 4200
Minneapolis, Minnesota 55402

I also certify that I sent a copy of the Administrative Consent Order, EPA Order

No. EPA-5-10-113(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 5th day of January 2011.



Betty Williams
Administrative Program Assistant
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER:

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