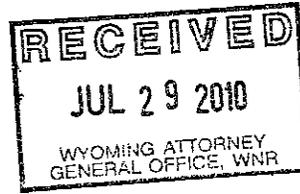


John S. Burbridge # 5-2856
Wyoming Attorney General's Office
123 Capitol Building
Cheyenne, Wyoming 82002
(307) 777 6946



**IN THE FIRST JUDICIAL DISTRICT COURT
IN AND FOR LARAMIE COUNTY, STATE OF WYOMING**

PEOPLE OF THE STATE OF)
WYOMING,)
)
Plaintiff,)
)
v.)
)
OCI WYOMING, L.P.,)
a Delaware limited partnership,)
)
Defendant.)

Docket No. 176-290

FILED

JUL 28 2010

GERRIE E. BISHOP
CLERK OF THE DISTRICT COURT

CONSENT DECREE

The Wyoming Department of Environmental Quality, Air Quality Division ("DEQ/AQD") in the name of the People of the State of Wyoming as Plaintiff, pursuant to Sections 901(a) and 903(c) of the Wyoming Environmental Quality Act ("Act") WYO. STAT. ANN. §§ 35-11-901(a) and 903(c) (West 2008), has filed a Complaint against Defendant OCI Wyoming, L.P ("OCI"), alleging that OCI failed to comply with particulate emission limits for the 4SC-12A Unit 4 Soda Ash Dryer & Cooler/Classifier as required by condition F4 of permit 3-1-119-1, held by OCI in the operation of its Big Island Mine & Refinery ("Facility") located in Sweetwater County, Wyoming. DEQ/AQD and OCI (collectively referred to hereinafter as "Parties"), and the Court by entering this Consent Decree find, that this Consent Decree has been negotiated by the Parties in good faith and will avoid or settle certain litigation among the Parties, and that this Consent Decree is fair, reasonable and in the public interest. THEREFORE, the Parties, by and through their respective attorneys, have agreed to the following terms for resolving this litigation prior to trial, before the taking of evidence, without the adjudication or admission of any issue of fact or law, and with the consent of the Parties, IT IS HEREBY ORDERED, ADJUDGED, and DECREED as follows:

I. Jurisdiction and Venue

This Court has jurisdiction over the subject matter and parties in this civil action under Section 901(a) of the Act. WYO. STAT. ANN. § 35-11-901(a). Venue is proper in Laramie County under Section 903(c) of the Act. WYO. STAT. ANN. § 35-11-903(c).

II. Parties

A. OCI is a Delaware limited partnership and is the owner and operator of the Facility.

B. DEQ/AQD is the agency of Wyoming state government responsible for enforcing the Act, the Wyoming Air Quality Standards and Regulations (“WAQSR”), and permits issued pursuant to those provisions including permit 3-1-119-1.

III. Background

A. OCI

1. OCI owns and operates the Facility in Sweetwater County, Wyoming.

2. OCI holds DEQ/AQD permit 3-1-119-1 relating to the Facility.

3. OCI is a “person” as defined in Section 103(a)(vi) of the Act and WAQSR, Ch. 1 § 3(a). WYO. STAT. ANN. § 35-11-103(a)(vi).

B. DEQ/AQD Operating Permit Program, Permit 3-1-119-1 and NOV 4617-10

1. The Act establishes a statutory scheme which is designed in part to enable the State of Wyoming to prevent, reduce and eliminate pollution; to preserve and enhance the State of Wyoming’s air, water and land resources; and, to allow the State of Wyoming to plan the development, use, reclamation and enhancement of its air, land and water resources. WYO. STAT. ANN. § 35-11-102.

2. WYO. STAT. ANN. § 35-11-801(a) states in pertinent part: “In granting permits, the [DEQ] director may impose such conditions as may be

necessary to accomplish the purpose of this act which are not inconsistent with the existing rules, regulations and standards.” WYO. STAT. ANN. § 35-11-801(a).

3. Wyoming’s operating permit program for major sources defines sources subject to the operating permit program, procedures for applying for an operating permit, review of permit applications and issuance of operating permits. WYO. STAT. ANN. §§ 35-11-203 through -206.

4. WYO. STAT. ANN. § 35-11-203(a) defines source categories subject to the DEQ/AQD operating permit program. In pertinent part, these sources include any stationary source or group of sources that: “(A) Has the potential to emit one hundred (100) tons or more per year of any pollutant regulated under the Clean Air Act and is a major stationary source as defined in section 302 of the Clean Air Act[.]” WYO. STAT. ANN. § 35-11-203(a)(i)(A).

5. WYO. STAT. ANN. § 35-11-203(b) states in relevant part, “[a]fter the effective date of the operating permit program authorized under W.S. 35-11-203 through 35-11-212, it shall be unlawful for any person . . . to operate any source required to have a permit under this section, without having complied with the provisions of the operating permit program.” WYO. STAT. ANN. § 35-11-203(b).

6. Chapter 6, Section 3 of the WAQSR prescribes the applicability and procedures for issuing permits to major sources under DEQ/AQD’s permitting program. WAQSR, Ch 6, § 3.

7. Chapter 6, Section 3(a) of the WAQSR states that any major source, “[is] subject to the operating permit requirements of this section[.]” WAQSR, Ch 6, § 3(a)(i).

8. Chapter 6, Section 3(d)(ii) of the WAQSR states: “Except as provided in this paragraph or in Chapter 6, Section 3(d)(iii), no source requiring an operating permit under Chapter 6, Section 3 may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under this section.” WAQSR, Ch 6, § 3(d)(ii).

9. Chapter 6, Section 3(h)(i)(F)(I) of the WAQSR mandates the operating permit include a provision stating: "The permittee must comply with all conditions of the operating permit. Any permit noncompliance constitutes a violation of the Act [CAA], Article 2 of the Wyoming Environmental Quality Act and the WAQSR and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application." WAQSR, Ch 6, § 3(h)(i)(F)(I).

10. On July 12, 2006, the DEQ/AQD issued permit 3-1-119 to OCI. Permit 3-1-119 was superseded by permit 3-1-119-1 on June 2, 2009.

11. Condition F4 of permit 3-1-119-1 limits the particulate emissions from the 4SC-12A Unit 4 Soda Ash Dryer & Cooler/Classifier to 37.9 lb/hr.

12. On June 23, 2009, stack testing for the 4SC-12A Unit 4 Soda Ash Dryer & Cooler/Classifier showed a result of 51.5 lb/hr for particulate emissions (135% of the 37.9 lb/hr limit). OCI disputed the validity of the June 23, 2009 compliance test in correspondence with the DEQ/AQD dated August 31, 2009. From August 12-14, 2009, OCI conducted stack testing on 4SC-12A. The testing consisted of seven one hour tests with a minimum of 21.11 lbs/hr and a maximum of 28.28 lb/hr. The DEQ/AQD used the three highest rates to determine an average of 25.65 lb/hr particulate (67.7% of allowable).

13. Pursuant to WYO. STAT. ANN. § 35-11-701, the DEQ/AQD issued a Notice of Violation, Docket No. 4617-10 ("NOV") to OCI on December 31, 2009, alleging in part that OCI violated the Act, the WAQSR and permit 3-1-119-1, by failing to comply with particulate emission limits for the 4SC-12A Unit 4 Soda Ash Dryer & Cooler/Classifier based on the June 23, 2009, test results.

14. Any person who violates any provision of Article 2 of the Act, the WAQSR, or any standard or permit adopted pursuant to those provisions, is subject to a penalty not to exceed ten thousand dollars (\$10,000.00) for each violation for each day during which the violation continues, a temporary or

permanent injunction, or both a penalty and an injunction. WYO. STAT. ANN. § 35-11-901(a).

IV. Settlement

A. Within thirty (30) days after notice to OCI of entry by the Court of this Consent Decree, OCI, without admitting any of the facts alleged in the NOV or Complaint and without admitting liability or failure to comply with any permit requirements, agrees to pay to the DEQ/AQD the total sum of \$15,000.00 as a full and complete cash payment to resolve this matter ("Stipulated Penalty Amount"). The check shall be made payable to the Department of Environmental Quality and shall be delivered to John S. Burbridge, Senior Assistant Attorney General, Wyoming Attorney General's Office, 123 Capitol Building, Cheyenne, Wyoming 82002.

B. Payment of the Stipulated Penalty Amount shall constitute full satisfaction of OCI's obligations under this Consent Decree.

V. Release and Covenant not to Sue and Dismissal With Prejudice

A. DEQ/AQD agrees that payment of the Stipulated Penalty Amount as specified in Section IV of this Consent Decree shall constitute full satisfaction of the claim against OCI that DEQ/AQD alleged in the Complaint initiating this action or in the NOV.

B. In consideration of the Stipulated Penalty Amount paid by OCI under Section IV of this Consent Decree, DEQ/AQD and the State of Wyoming hereby release and covenant not to sue OCI, its respective successors, assigns, affiliates, parents, officers, directors, employees and representatives, as to any common law claims, statutory claims, or other claims or causes of action which arise out of the facts, transactions, or events which were alleged in the Complaint initiating this action or in the NOV on the basis of knowledge DEQ/AQD actually had at the time of issuing the NOV.

C. This covenant not to sue is expressly conditioned upon the complete and satisfactory performance by OCI as specified in Section IV of this Consent Decree.

D. Within thirty (30) days after the complete and satisfactory performance by OCI of the terms of this Consent Decree, the DEQ/AQD will request that the Court terminate this Consent Decree and dismiss this action with prejudice to all claims which were made in this lawsuit.

E. The terms of Section IV and V shall survive the termination of the Consent Decree.

VI. Parties Bound

A. This Consent Decree shall apply to, and be binding upon OCI, its successors and assigns and upon the DEQ/AQD and the State of Wyoming.

B. The Parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Consent Decree shall not be construed so as to create such status. The rights, duties and obligations contained in this Consent Decree shall operate among the Parties to this Consent Decree.

C. Nothing in this Consent Decree relieves OCI of its duty to comply with the Act, WAQSR, the federal Clean Air Act, and the regulations and standards adopted thereunder including any permit requirements.

D. This Consent Decree is not and shall not be construed to be a permit or permit modification issued pursuant to any federal, state, or local statute, ordinance or regulation. OCI shall remain solely responsible for its compliance with the terms of this Consent Decree, all permits, and all applicable federal, state and local laws and regulations.

VII. Terms Not Severable

A. The terms of this Consent Decree, which embody the comprehensive stipulated settlement between the Parties, are not severable.

VIII. Reservation of Rights

A. By signing this Consent Decree, OCI neither admits nor denies that it violated any provision of the Act, the WAQSR, the federal Clean Air Act, or permits issued pursuant to such authority including permit 3-1-119-1. By entering into this Consent Decree, OCI neither admits nor denies the validity of any allegation contained in the NOV of the Complaint.

B. DEQ/AQD and the State of Wyoming reserve all legal and equitable remedies available to enforce the provisions of this Consent Decree, including seeking injunctive relief and/or civil penalties.

C. DEQ/AQD and the State of Wyoming do not waive sovereign immunity by entering into this Consent Decree and retain immunity and all defenses available to them as sovereigns under all state and federal law, except that any of the Parties may bring an action to seek interpretation or enforcement of this Consent Decree. Each party shall bear its own costs, fees, and expenses in any such action.

IX. Termination of Consent Decree

A. Except as otherwise provided in Section V, the terms and conditions of this Consent Decree shall terminate upon the DEQ/AQD's filing of written notice to the Court confirming the completion of OCI's obligations under this Consent Decree and the Court's entry of a Termination and Dismissal order.

X. Attorney's Fees/Costs of Action

A. Each Party shall bear its own attorneys fees and costs of this action.

XI. Retention of Jurisdiction

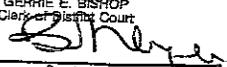
A. The Court shall retain jurisdiction to enforce the terms and conditions of this Consent Decree, to enter such orders as are appropriate under the Consent Decree, and to resolve all disputes as may be necessary or appropriate for the construction or to carry out the terms of this Consent Decree until it is terminated as provided above.

XII. Authority

A. The Signatories certify that they are duly authorized to bind their respective Parties to this Consent Decree.

DATED this 27 day of July, 2010.


DISTRICT COURT JUDGE

STATE OF WYOMING COUNTY OF LARAMIE, SS CHEYENNE
I, Gerrie E. Bishop, Clerk of the District Court in and for the County of Laramie, Wyoming, do hereby certify that the within and foregoing is a full true and correct copy of the original thereof as the same appears on file or of record in my office and that the same is in full force and effect as of this date.
Witness my hand and seal of said court this 28 day of July, 2010.
GERRIE E. BISHOP
Clerk of District Court
By  Deputy

WE HEREBY CONSENT to the entry of this Consent Decree:

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

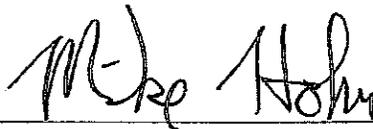

STEVEN A. DIETRICH, Administrator
Air Quality Division

7-19-10
Date


John V. Corra, Director
Department of Environmental Quality

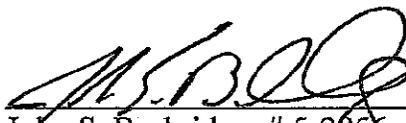
7-19-10
Date

FOR OCI WYOMING, L.P.: *wft*


Mike Hohn
Site Manager

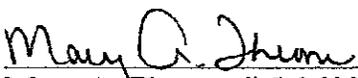
7-13-10
Date

APPROVAL AS TO FORM:


John S. Burbridge, # 5-2856
Attorney General's Office
Attorney for DEQ/AQD

7-19-10
Date

APPROVAL AS TO FORM:


Mary A. Throne, # 5-2699
Throne Law Office, P.C.
Counsel for OCI Wyoming, L.P.

7-8-10
Date