

IN THE CIRCUIT COURT OF JASPER COUNTY, MISSOURI

STATE OF MISSOURI ex rel. Chris Koster, )  
 the Attorney General of Missouri, and the )  
 Missouri Department of Natural Resources, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 AMERICOLD LOGISTICS, LLC. )  
 )  
 Defendant. )

**FILED**  
**MELISSA HOLCOMB-CLERK**  
 5-13-2014  
**JASPER COUNTY CIRCUIT COURT**  
**JOPLIN MO**

Case No.

**CONSENT JUDGMENT**

Plaintiff, by and through its relators Attorney General Chris Koster and the Missouri Department of Natural Resources, and Defendant Americold Logistics, LLC, by and through counsel, consent to the entry of this Consent Judgment.

The Court has read Plaintiffs Petition for Injunctive Relief and Civil Penalties, in which Plaintiff alleges that Defendant violated the Missouri Air Conservation Law. The Court is satisfied that the provisions of this Consent Judgment are intended to resolve the issues raised by the Petition and that the parties want to terminate this controversy and consent to the entry of this judgment without trial.

Each and every term of this Judgment shall be enforceable by further order of this Court, and to that end, the Court retains jurisdiction of the matter in order to enforce each and every term of this Consent Judgment. The Court finds that the terms of this Consent Judgment protect the public's interest.

The parties, having consented to the entry of this Consent Judgment, it is hereby ORDERED, ADJUDGED AND DECREED that:

**I. Objectives of the Parties**

The objectives of the parties to this Consent Judgment are to protect human health and the environment and to compromise, satisfy and resolve allegations contained in Plaintiff's Petition without any admission of liability with regard to the alleged violations in the Petition on the part of the Defendant.

## **II. Definitions**

2. Terms used herein shall have the same meaning as provided in the Missouri Air Conservation Law, Chapter 643 and the regulations adopted thereunder ("MACL"). In addition, the following terms are specifically defined:

- a. "Consent Judgment" means this Consent Judgment and all attachments, which are included by reference and fully enforceable as a term of the judgment.
- h. "Defendant" means Americold Logistics, LLC
- c. "Department" means the Missouri Department of Natural Resources.
- d. "Effective Date" means the date that the Court enters an order approving this Consent Judgment.
- e. "Installation" means the Defendant's limestone crushing operation known as Carthage Crushed Limestone at 1331 Civil War Road, Carthage, Jasper County, Missouri.
- f. "Plaintiff" and "State" means the State of Missouri on the relationship of Attorney General Chris Koster and the Department.

## **III. Jurisdiction and Venue**

3. This Court has jurisdiction over the subject matter and the parties in this case pursuant to § 643.151.1 RSMo. Venue is proper in this court pursuant to § 643.151.1 RSMo because the Defendant's conduct giving rise to this action took place in Jasper County.

## **IV. Parties Bound**

4. The provisions of this Judgment shall be binding upon the parties to this action as well as their agents, servants, employees, heirs, successors, assigns, and to all persons, firms, corporations and other entities who are, or who will be, acting in concert or privity with, or on behalf of the parties to this action or their agents, servants, employees, heirs, successors, and

assigns. Defendant shall provide a copy of this order to all persons or entities retained to perform work required by this order. To the extent that any prior agreement between the parties is in conflict with this Consent Judgment, this Consent Judgment controls.

#### **V. Satisfaction and Reservation of Rights**

5. The Department and Attorney General agree not to bring or cause to be brought any civil action against Defendant or its officers, directors, employees or agents for violations alleged in the Petition, except to enforce the terms of this Consent Judgment. Upon the completion of all terms of this Consent Judgment, including the payment of civil penalties, completion of all schedules of compliance and the payment of any stipulated penalties due under the terms of this Consent Judgment, Defendant is relieved of liability for the violations alleged in the Petition and of any further obligations under this Consent Judgment.

6. This Consent Judgment shall not be construed to limit the rights of the State to obtain penalties or injunctive relief under the MACL or its implementing regulations or under other federal or state laws, or regulations, except as expressly stated in the preceding paragraph of this Consent Judgment. Without limiting the foregoing, the parties expressly agree that:

a. Nothing in this Consent Judgment shall prevent the State from applying to this Court for further orders or relief if violations of this Consent Judgment occur.

b. Nothing in this Consent Judgment shall preclude the State from seeking equitable or legal relief for violations of the Missouri laws or regulations that were not alleged in the petition.

c. Nothing in this Consent Judgment shall preclude the State from seeking equitable or legal relief for future violations of the MACL,

d. The State of Missouri further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, Defendant' facility, acts or omissions, whether related to the violations addressed in this Consent Judgment or otherwise.

e. Nothing in this Consent Judgment shall in any way limit the availability of any defenses that Defendant may have to the actions identified in paragraphs 6 (a-d).

#### **VI. Injunctive Relief**

7. Defendant shall implement the Compliance Plan, which is attached to this Consent Judgment as Exhibit A, the terms of which are incorporated into this Consent Judgment as if fully set forth herein.

8. Defendant shall obtain all approvals and permits necessary to perform the terms of the Compliance Plan, if any, at Defendant's cost.

#### **VII. Information Collection and Retention**

9. The State, through its authorized representatives, shall have the right of entry into the Installation at all reasonable times, upon presentation of credentials, to:

- a. monitor the progress of activities required under this Consent Judgment;
- b. verify any data or information submitted to the State in accordance with the terms of this Consent Judgment;
- c. obtain samples and, upon request, splits of any samples taken by Defendant or Defendant's representatives, contractors, or consultants;
- d. obtain documentary evidence, including photographs and similar data; and
- e. assess Defendant's compliance with this Consent Judgment.

10. Upon request, Defendant shall provide the State, through its authorized representatives, splits of any samples taken by Defendant.

11. Until five years after the termination of this Consent Judgment, Defendant shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Defendant's performance of its obligations under this Consent Judgment. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or

procedures. At any time during this information-retention period, upon request by the State, Defendant shall provide copies of any non-privileged documents, records, or other information required to be maintained under this Paragraph.

12. This Consent Judgment in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the State pursuant to applicable federal or state laws, regulations, or permits, nor does it limit or affect any duty or obligation of Defendant to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

### **VIII. Stipulated Penalties**

13. In the event that Defendant fail to comply with the requirements of the Compliance Plan, Exhibit A, Defendant shall pay stipulated penalties in accordance with the following schedule :

A. \$100.00 per day for each day of each violation up to thirty days.

B. \$250.00 per day for each day of each violation, from thirty-one days to sixty days.

C. \$500.00 per day for each day of each violation, beyond sixty days.

14. Stipulated penalties shall be due and payable within ten days of demand being made by the Attorney General's Office. Defendant shall pay stipulated penalties by check made payable to the "*State of Missouri (Jasper County)*" and mailed, along with a copy of the State's stipulated penalty demand letter, to: Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899. That check will be deposited and processed in accordance with the consent judgment and Missouri law.

15. The inclusion of stipulated penalty provisions in this Consent Judgment, and the payment of stipulated penalties, does not limit the State's ability to pursue other penalties for the same acts; where a violation of this Consent Judgment also constitutes a violation of a statute, stipulated penalties may be collected in addition to statutory penalties imposed for those violations.

## IX. Dispute Resolution

16. Unless otherwise expressly provided for in this Consent Judgment, the dispute resolution procedures of this section shall apply to resolve disputes arising under or with respect to this Consent Judgment.

A. Informal Dispute Resolution. Any dispute under this Consent Judgment shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Defendant sends the Department a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed thirty (30) Days from the date of the Notice of Dispute, unless that period is modified by written agreement between the Parties. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the Department shall be considered binding unless, within twenty (20) Days after the conclusion of the informal negotiation period, Defendant invokes formal dispute resolution procedures as set forth below.

B. Formal Dispute Resolution. Defendant shall invoke formal dispute resolution procedures, within the time period provided in the preceding subparagraph, by serving on the Department and the Plaintiff a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Defendant's position and any supporting documentation relied upon by Defendant.

C. The Department shall serve its Statement of Position within sixty (60) Days of receipt of Defendant's Statement of Position. The Department's Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the Department. The Department's Statement of Position shall be binding on Defendant, unless Defendant files a petition for judicial review of the dispute in accordance with the following subparagraph.

D. Defendant may seek judicial review of the dispute by filing a motion with this Court and serving on the Department, the motion requesting judicial resolution of the dispute. The Motion must be filed within fifteen (15) Days of receipt of the Department's Statement of Position pursuant to the preceding subparagraph.

E. The Department shall respond to Defendant's motion within thirty (30) Days.

F. The invocation of dispute resolution procedures under this section shall not, by itself, extend, postpone, or affect in any way any obligation of Defendant under this Agreement not in dispute. As part of the resolution of any dispute under this Section, in appropriate circumstances the disputing Parties may agree, or this Court may order, an extension or modification of the schedule for the completion of the work required under this Consent Judgment.

#### **X. Modification**

17. Except as otherwise specified herein, there shall be no modification of this Consent Judgment without the written agreement of the Parties. There shall be no material modification of this Consent Judgment without the written agreement of the Parties and the approval of the Court. All modifications shall be in writing and filed with the Court.

#### **XI. Costs**

18. Defendant shall pay all court costs in this action.

#### **XII. Termination**

19. In the event Defendant ceases operation of PM<sub>10</sub> emission units at Defendant's Installation subject to this Consent Judgment, Defendant shall notify MDNR and will be relieved of the injunctive relief or other required practices that were for the purpose of reducing PM<sub>10</sub> emissions from the subject units at Defendant's Installation.

20. In the event that elements of Exhibit A, Compliance Plan, are imposed in a permit or permit amendment and incorporated into the State of Missouri's State Implementation Plan, Defendant shall be relieved of the injunctive relief or other required practices that



were for the purpose of reducing PM<sub>10</sub> emissions from the subject units at Defendant's Installation and this Consent Judgment shall terminate. MDNR shall cooperate with Defendant in the issuance of a permit amendment or permit incorporating the elements of the Compliance Plan.

The parties hereby consent to this Consent Judgment through their duly authorized representatives as indicated below.

AMERICOLD LOGISTICS, LLC

By: [Signature]

Title: EVP

Date: 4/2/14

MISSOURI ATTORNEY GENERAL'S OFFICE

By: [Signature]

Don A. Willoh  
Assistant Attorney General

Date: 3-28-14

MISSOURI DEPARTMENT OF NATURAL RESOURCES

By: [Signature]

Kyra L. Moore, Director  
Air Pollution Control Program

Date: 3-27-14

MISSOURI AIR CONSERVATION COMMISSION

By: [Signature]

Date: 03-27-14

SO ORDERED.

[Signature]

Circuit Judge

Date: 5-13-14

COURT SEAL OF




JASPER COUNTY



The Missouri Air Conservation Commission **ADOPTS** the following action on this 27th day of March, 2014:

Missouri State Implementation Plan Revision – Americold Logistics, LLC  
Particulate Matter (PM<sub>10</sub>) Consent Judgement

 \_\_\_\_\_, Chairman

 \_\_\_\_\_, Vice Chairman

 \_\_\_\_\_, Member

 \_\_\_\_\_, Member

\_\_\_\_\_, Member

\_\_\_\_\_, Member

\_\_\_\_\_, Member

## **EXHIBIT A COMPLIANCE PLAN**

### **A. REQUIRED PARTICULATE MATTER EMISSION CONTROL MEASURES**

The following requirements shall be implemented in accordance with the schedule set forth herein. Equipment acquired or used by Americold shall be approved by the Department before installation unless already installed.

1. TelSmith Primary and Secondary Crushers: Americold installed and is operating a wet suppression system designed to control fugitive particulate matter emissions from the TelSmith primary and secondary crushers. The wet suppression system consists of installing at least four spray heads on the primary crusher, three spray heads on the secondary crusher, and four spray heads on the splitter. Each spray head consists of at least seven fogging nozzles. The wet suppression system was installed and operating by November 1, 2012. This system will be maintained and operated in good working order.

2. Chip Plant, Pre-1983 Tyler Screen: Americold eliminated use of the Tyler screen in December 2012.

3. Cedar Rapids Dryer and Collector: Americold shall purchase and install a 40 horsepower 100 CFM compressor for the baghouse controlling the Cedar Rapids dryer. The compressor was installed and operating by August 31, 2013. This system will be maintained and operated in good working order.

4. Cedar Rapids Long Lime Belt Discharge: Americold completed temporary means to control emissions including sealing the transition point and any leaks by January 1, 2014. Americold shall design and install a new drop point/transition at the drop point from the Cedar Rapids long lime conveyor belt (COCR-06) to the West Lime Hopper. The new drop point/transition shall be installed by January 31, 2014. Americold shall submit verification of installation to the Department within 30 days of the completion of the installation. This system will be maintained and operated in good working order.

5. West Lime Hopper: Americold shall install a new bin top on the West Lime hopper. The new bin top shall be installed by January 31, 2014. Americold shall submit verification of installation to the Department within 30 days of the completion of the installation. This system will be maintained and operated in good working order.

6. Line #1 C5 Belt: Americold implemented a temporary measure to seal the drop point between C5 #1 belt and the C5 Elevator by December 1, 2012. Americold shall also fabricate a new transition on the C5 elevator (Elev-L1-03) head where it drops onto the tail of the line #1 CS conveyor belt (Conv-L1-05). Americold shall also install a new head house and boot that seals to the C5 elevator (Elev-L1-03). This permanent equipment shall be installed and operating by January 31, 2014. Americold shall submit verification of installation and operation to the Department within 30 days of the completion of the installation. This system will be maintained and operated in good working order.

7. Water Truck for Haul Roads: Americold shall modify an existing CAT 769 haul truck and rebuild it into an 8,000 gallon water truck for the haul roads. The rebuilt water truck shall be in service by March 31, 2014. Americold will submit verification to the Department within 30 days of the rebuilt water truck being placed into service. The water truck currently used by Americold for this purpose shall be kept in good working order until the rebuilt water truck is in service and shall be kept available as a backup in the event the rebuilt water truck becomes inoperable. Both water trucks shall be maintained and operated in good working order.

8. Waste Fines Haul Truck: Americold will enclose the bed of the D350 haul truck that hauls waste fines to the stock pile area. This project was completed on December 1, 2012. The enclosure system and haul truck will be maintained and operated in good working order.

9. Operation and Maintenance Plan: Americold shall develop an operation and maintenance (O&M) plan, and shall submit this plan to the Department on or before January 31, 2014, for Department review and approval. Implementation of the plan must commence immediately upon acceptance of the plan by the Department and any changes must be reviewed in advance and approved by the Department. This O&M plan must address, at a minimum, the following:

- a. Baghouses and dust collectors including, but not limited to, continuing to use the pleated dust collector bags in the Cedar Rapids Torrit dust collector and the Line #1 BHA West dust collector. The bags must be capable of achieving 99.5% control, as certified by the manufacturer. The pleated dust collector bags in the Cedar Rapids Torrit dust collector and the Line #1 BHA West dust collector shall be replaced as necessary and those particular dust collector systems shall be maintained and operated in good working order.
- b. Wet suppression systems
- c. Water truck
- d. Cold weather operations
- e. Stockpile areas
- f. Level and overflow sensors/indicators for bins and silos

10. Emissions Inventory Questionnaire: Americold will submit a full EIQ for calendar year 2012 by February 1, 2014.

## **B. CONTINGENCY PARTICULATE MATTER EMISSION CONTROL MEASURES**

### Initial investigation of a monitored PM<sub>10</sub> Exceedance:

Americold shall conduct the following evaluation when preliminary ambient air monitoring data recorded by the Carthage ambient air monitor located off of Juniper Road east of the Americold facility and operated by the State of Missouri (the "Ambient Monitor") indicates that an exceedance of the PM<sub>10</sub> NAAQS may have occurred:

1. Any exceedance shall be immediately investigated and addressed to the extent possible in a timely manner. Americold will submit, to the Department, a detailed report addressing the cause of the exceedance, the mitigation of the exceedance and the plan for prevention of future similar exceedances. If Americold wants to claim that an exceedance was caused by a startup, shutdown or malfunction, then Americold shall follow the requirements of 10 CSR 10-6.050 "Start-up, Shutdown and Malfunction Conditions" at a minimum.
2. The report shall be submitted to the Department within 10 days. Extensions to the reporting deadline may be granted at the Departments' discretion.
3. For purposes of this provision, "Exceedance" for PM<sub>10</sub> means a daily value that is above the level of the 24-hour standard after rounding to the nearest 10 µg/m<sup>3</sup> (i.e., values ending in 5 or greater are to be rounded up). The level of the national primary and secondary 24-hour ambient air quality standards for particulate matter is 150 micrograms per cubic meter (µg/m<sup>3</sup>), 24 hour average concentration (See 40 CFR 50.6). The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m<sup>3</sup>, as determined in accordance with appendix K to 40 CFR Part 50, is equal to or less than one.

#### Further Contingency Measures:

If, after execution of this Consent Judgment and implementation of all measures in Section A of this Compliance Plan, Americold has a validated exceedance of the PM<sub>10</sub> NAAQS recorded by the Ambient Monitor and the validated exceedance resulted from Americold's operations, Americold shall initiate implementation of the contingency measures listed below within thirty days of receiving notification of the validated exceedance. For purposes of this provision, "Validated" means Monitoring data that has undergone comprehensive evaluation of quality control results and has been reported to EPA's Air Quality System (AQS). Validated data may be reported to AQS by the Department weeks or months but not later than 90 days after the calendar quarter in which the monitoring data was measured.

Implementation of a subset of these contingencies may be approved at the Department's discretion if a definitive cause of the exceedance has been determined in the initial exceedance investigation and provided within the report as described above. In the event that alternate Contingency Measures are identified through the investigation process for any specific exceedance, Americold shall propose, within the report of the investigation, additional or alternate Contingency Measures for Department review and approval.

Americold shall submit verification of completion of these contingency measures or a request for extension for completion to the Department within 60 days of notification of the exceedance.

1. Connect Line #1 C5 Belt (Conv-L1-05) Tail to the Dust Collection System:  
Americold will connect the transfer point from the C5 elevator (Elev-L1-03) head to the line #1 C5 conveyor belt (Conv-L1-05) tail, to the existing dust collection system.

2. Line #1 and Line #2 of the Fine Grind plant: Americold will review other drop points of Line #1 and Line #2 of the Fine Grind plant that could be connected to the existing dust control systems.
3. Wet Suppression System(s): Americold will install (an) additional wet suppression system(s), or enhance the existing wet suppression systems, in order to further reduce fugitive particulate matter emissions from the processing of non-metallic minerals. This system, upon installation, shall be maintained and kept in good working order.
4. Cessation of the use of compressed air to clean certain equipment: Americold will discontinue the use of compressed air for the external cleaning of the crushers, dust collectors, duct work, or other process equipment at the facility. Compressed air will only be used for the maintenance of the internal workings of the crushers and dust collectors and duct work identified on the attached list.

EPA Rulemakings

CFR: 40 C.F.R. 52.1320(d)(30)  
FRM: 81 FR 4886 (1/28/16) effective 3/28/16  
PRM: 81 FR 4905 (1/28/16)  
State Submission: 6/2/14  
State Effective Date: 4/27/14  
APDB File: MO-343  
Description: This SIP revision incorporates a consent judgment to address violations of the 24-hour PM<sub>10</sub> NAAQS near the Americold Logistics, LLC, Carthage Crushed Limestone (CCL) facility near Carthage, Missouri. The consent judgment between the State of Missouri and CCL includes measures that will control PM<sub>10</sub> emissions from the facility. This approval will make the consent judgment federally-enforceable.

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Difference Between the State and EPA-Approved Regulation

None.