UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:	)	**Docket No.**
	)	
Madison-Kipp Corporation	)	**Proceeding to Assess a Civil Penalty**
Madison, Wisconsin,	)	**Under Section 113(d) of the Clean Air Act,**
	)	**42 U.S.C. § 7413(d)**
Respondent.	)	
	)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Madison-Kipp Corporation (MKC), a corporation doing business in Wisconsin.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. For purposes of this proceeding, Respondent admits the jurisdictional allegations in this CAFO. Respondent neither admits nor denies the facts and alleged violations stipulated in this consent agreement.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Each state must submit to the Administrator of EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the CAA, 42 U.S.C. § 7410.

10. Under Section 110(a) of the CAA, each SIP must include a permit program, enforceable emission limitations, control measures, and schedules for compliance. Upon EPA's approval of a SIP, the plans become independently enforceable by the federal government, as stated under Section 113(a) of the CAA, 42 U.S.C. § 7413(a).

11. On January 18, 1995, EPA approved Wisconsin Administrative Code (WAC) NR 407 as part of the federally enforceable SIP for Wisconsin. 60 Fed. Reg. 3538 (January 18, 1995); 40 C.F.R. §§ 52.2570(c)(75) and (76). On April 27, 1995, EPA approved NR 439 and NR 424 as part of the federally enforceable SIP for Wisconsin. 60 Fed. Reg. 20643 (April 27, 1995). On September 16, 2003, EPA approved NR 415.05 as part of the federally enforceable SIP for Wisconsin. 68 Fed. Reg. 54160 (September 16, 2003).

12. "Major Source" is defined in WAC NR 407.02(4)(b) as any source which emits, or has the potential to emit, 100 tons per year or more of any air contaminant subject to regulation under the CAA. As defined in WAC NR 407.02(9), a "Synthetic Minor Source" is

generally any stationary source that has its potential to emit limited by federally-enforceable permit conditions so that it is not a Major Source.

13. "Hazardous air pollutants listed under section 112(b) of the CAA" means the federally regulated air pollutants included in the list in section 112(b)(1) of the CAA (42 U.S.C. § 7412(b)(1)) as revised by 40 C.F.R. Part 63, Subpart C.

14. MKC operates an aluminum diecasting facility under a synthetic minor, non-Part 70 Air Pollution Control Operating Permit #113125320-F10 (Permit) issued by the Wisconsin Department of Natural Resources (WDNR) on July 30, 2008.

15. Pursuant to WAC NR 407.09(1)(c)(3) and 439.03(1)(c), permit condition I.ZZZ(2)(a)(2) requires MKC to submit an Annual Compliance Certification which identifies any permit provisions with which the facility was not in compliance. The document must be certified as true and accurate by a responsible official.

16. Pursuant to permit condition I.A(3)(b)(2), MKC is required to determine monthly chlorine emissions from the aluminum melting furnaces (RCI-1 and RCI-2) using an emissions factor of 0.034 pounds of chlorine emitted per pound of chlorine injected.

17. Pursuant to WAC NR 439.055(4), permit condition I.A(3)(c)(6) requires MKC to annually calibrate temperature monitoring devices, flow monitoring devices, and amperage monitoring devices for RCI-1 and RCI-2, and to maintain accurate calibration for each device.

18. Pursuant to permit condition I.A(4)(b)(2), MKC is required to determine monthly hydrogen chloride (HCl) emissions from the aluminum melting furnaces (RCI-1 and RCI-2) using an emissions factor of 0.205 pounds of HCl emitted per pound of chlorine injected.

19. Pursuant to WAC NR 415.05(1)(g) and 415.05(2)(a)(1), permit condition I.C(1)(c)(1) requires MKC to install and maintain a clearly visible sign in the Fair Oaks furnace

area stating that no fluxing or demagging practices are allowed in the furnace for alloying purposes.

20. Pursuant to WAC NR 439.04(1)(d), permit condition I.D(1)(c)(1)(b) requires MKC to maintain a calibration and maintenance log for die lube mixing equipment at the Atwood Building.

21. Pursuant to WAC NR 439.04(1)(d), permit condition I.D(1)(c)(1)(c) requires MKC to maintain records of the amount of die lube material used, the amount of water added to the mix, and the calculated dilution ratio for operations at the Atwood building.

22. Pursuant to WAC NR 439.04(1)(d), permit condition I.E(2)(c)(1)(b) requires MKC to maintain a calibration and maintenance log for die lube mixing equipment at the Fair Oaks Building.

23. Pursuant to WAC NR 439.04(1)(d), permit condition I.E(2)(c)(1)(c) requires MKC to maintain records of the amount of die lube material used, the amount of water added to the mix, and the calculated dilution ratio for operations at the Fair Oaks Building.

24. Pursuant to NR 424.03(2)(c), permit condition I.E(2)(a)(1)(c) allows MKC to achieve a dilution of 223 parts water to one part lubricant blend (by volume), at the Fair Oaks operation. Given the properties of the die lube used at MKC, this water-to-lubricant blend corresponds to a ratio of 107 gallons of water to 1 gallon of die lube.

25. Pursuant to WAC NR 439.04(1)(d), permit condition I.G(3)(c)(2)(b) requires that MKC maintain records of total emissions of hazardous air pollutants (HAPs) for a rolling 12-month period.

26. The Administrator of EPA (the Administrator) may assess a civil penalty of up to $37,500 per day of violation up to a total of $295,000 for violations that occurred after

January 12, 2009, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

27. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

28. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

29. MKC owns and operates an aluminum diecasting facility at 201 Waubesa Street, Madison, Wisconsin. The facility comprises operations in two separate buildings: Fair Oaks and Atwood.

30. On February 5, 2012, EPA issued to MKC an Information Request under Section 114 of the CAA. EPA received a response to the request on March 26, 2012. On May 14, 2012, EPA issued MKC a second Information Request. EPA received a response on June 26, 2012.

31. On January 27, 2011, MKC submitted an Annual Compliance Certification for the year 2010 to the WDNR, certifying that the facility was in continuous compliance with the permit at all times. However, the accompanying annual emissions summary erroneously indicated that emissions exceeded minor source limits of 100 tons per year for carbon monoxide (CO), nitrous oxides (NO_x), particulate matter (PM), volatile organic compounds (VOC), and sulfur dioxide (SO_2). In addition, emissions of HAPs were erroneously reported to exceed the

HAPs minor source limit of 25 tons per year for combined HAPs and 10 tons per year for an individual HAP. MKC, therefore, did not submit true and complete compliance certifications, in violation of WAC NR 407.09(1)(c)(3) and 439.03(1)(c) and permit condition I.ZZZ(2)(a)(2).

32. From March 30, 2007, to February 21, 2012, monthly chlorine emissions were calculated using an emission factor of 0.00590 pounds of chlorine emitted per pound of chlorine injected. This factor is 5.8 times lower than the required emissions factor of 0.034. The failure to use the correct emissions factor and properly calculate emissions is a violation of permit condition I.A(3)(b)(2).

33. From March 30, 2007, to February 21, 2012, the temperature monitoring devices at MKC were calibrated only in October 2009. The equipment should have been calibrated annually. Therefore, MKC violated WAC NR 439.055(4) and permit condition I.A(3)(c)(6).

34. From March 30, 2007, to February 21, 2012, the flow monitoring devices were calibrated only on June 12, 2008, and November 18, 2010. The equipment should have been calibrated annually. Therefore, MKC violated WAC NR 439.055(4) and permit condition I.A(3)(c)(6).

35. From March 30, 2007, to February 21, 2012, the amperage monitoring devices at MKC were not calibrated. The equipment should have been calibrated annually. Therefore, MKC violated WAC NR 439.055(4) and permit condition I.A(3)(c)(6).

36. From March 30, 2007, to February 21, 2012, monthly HCl emissions were calculated using an emission factor of 0.1825 pounds of HCl emitted per pound of chlorine injected. This factor is 1.12 times lower than the required emissions factor of 0.205. The failure to use the correct emissions factor and properly calculate emissions is a violation of permit condition I.A(4)(b)(2).

37. MKC did not maintain a sign in the Fair Oaks furnace area stating that no fluxing or demagging practices are allowed in the furnace for alloying purposes. Therefore, MKC violated WAC NR 415.05(1)(g) and 415.05(2)(a)(1), and permit condition I.C(1)(c)(1).

38. From March 30, 2007, to February 21, 2012, MKC did not maintain a record for calibration and maintenance of die lube mixing equipment at the Atwood Building. Therefore, MKC violated WAC NR 439.04(1)(d) and permit condition I.D(1)(c)(1)(b).

39. From March 30, 2007, to February 21, 2012, MKC did not maintain records of the die lube material used, the amount of water added to the mix, and the calculated dilution ratio for operations at the Atwood building. Therefore, MKC violated WAC NR 439.04(1)(d) and permit condition I.D(1)(c)(1)(c).

40. From March 30, 2007, to February 21, 2012, MKC did not maintain records for calibration and maintenance of die lube mixing equipment at the Fair Oaks Building. Therefore, MKC violated WAC NR 439.04(1)(d) and permit condition I.E(2)(c)(1)(b).

41. From March 30, 2007, to February 21, 2012, MKC did not maintain records of the die lube material used, the amount of water added to the mix, and the calculated dilution ratio for operations at the Fair Oaks building. Therefore, MKC violated WAC NR 439.04(1)(d) and permit condition I.E(2)(c)(1)(c).

42. From March 30, 2007, to February 21, 2012, the recorded ratio of water to die lube used at the Fair Oaks operation dropped below 107 on 73 occasions. These exceedences constitute violations of NR 424.03(2)(c) and permit condition I.E(2)(a)(1)(c).

43. From March 30, 2007, to February 21, 2012, MKC did not maintain records of total HAP emissions for a rolling 12-month period. Therefore, MKC violated WAC NR 439.04(1)(d) and permit condition I.G(3)(c)(2)(b).

44. On September 4, 2012, EPA issued to MKC a Notice of Violation (NOV) alleging that MKC violated the provisions of its operating permit and the Wisconsin SIP outlined in paragraphs 31 through 43 of this Order.

45. On November 9, 2012, representatives of MKC and EPA discussed the September 4, 2012, Notice of Violation.

46. At EPA's request, MKC conducted additional emissions testing at the facility on May 10, 16, and 17, 2014, establishing current emissions factors for PM at the Atwood Plant, and for PM, Cl_2, and HCl at the Fair Oaks Plant. MKC provided results from the emissions testing to EPA on June 13, 2014.

Civil Penalty

47. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and the Respondent's agreement to perform supplemental environmental projects, Complainant has determined that an appropriate civil penalty to settle this action is $35,000.

48. Within 30 days after the effective date of this CAFO, Respondent must pay a $35,000 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

For checks sent by express mail (non-U.S. Postal Service will not deliver mail to P.O. Boxes) Respondent must send a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note the Respondent's name, and the docket number of this CAFO.

49. Respondent must send a notice of payment that states the Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Jose DeLeon (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

50. This civil penalty is not deductible for federal tax purposes.

51. If Respondent does not pay timely the civil penalty or any stipulated penalties due under paragraphs 63 and 79, below, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

52. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

Supplemental Environment Project #1

53. Respondent must complete a supplemental environmental project (SEP) designed to protect the environment and public health by reducing energy usage and associated air pollution emissions. This SEP is the partial funding of a project to be completed at and by the Goodman Community Center.

54. On behalf of the Goodman Community Center, a not-for-profit organization located in Madison, Wisconsin, Respondent must complete the SEP as follows:

a. Respondent must provide funding to replace, in whole or in part, a faulty and inefficient tandem chiller with a more energy-efficient unit;

b. The Goodman Community Center will select the equipment for purchase and be solely responsible for the timely installation of the equipment associated with the SEP;

c. Respondent will tender its payment to the Goodman Community Center within three weeks of the effective date of this CAFO;

d. Purchase and installation is anticipated to be completed by the Goodman Community Center within one year of the effective date of this CAFO; and

e. If the SEP is not completed by one year after the effective date of this CAFO, the project will be considered incomplete and MKC will be responsible for stipulated penalties according to paragraph 63(a).

55. Respondent must spend at least $80,000 towards this SEP.

56. Respondent certifies as follows:

> I certify that Madison-Kipp Corporation is not required to perform or develop the SEP by any law, regulation, order, or agreement or as injunctive relief as of the date that I am signing this CAFO. I further certify that Madison-Kipp Corporation has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.
>
> I certify that Madison-Kipp Corporation is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date that I am signing this CAFO (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not expired.

57. EPA may arrange to inspect the Goodman Community Center to monitor Respondent's compliance with this CAFO's SEP requirements.

58. Respondent must submit a SEP completion report to EPA within 6 weeks of the Goodman Community Center completing the replacement of the chiller. This report must contain the following information:

a. Description of the SEP as completed;

b. Certification from the Goodman Community Center that the funds were spent in conformity with the SEP as described;

c. Itemized cost from the Goodman Community Center of goods and services used to complete the SEP documented by copies of invoices, purchase orders or cancelled checks that specifically identify and itemize the individual cost of the goods and services;

d. Certification that Respondent has tendered funding for the SEP in compliance with paragraph 55 of this CAFO; and

e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

59. Respondent must submit the SEP Completion Report required by this CAFO by first-class mail to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch at the address provided in paragraph 49, above.

60. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

> I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

61. Following receipt of the SEP completion report described in paragraph 58, above, EPA must notify Respondent in writing that:

a. It has satisfactorily completed the SEP and the SEP report;

b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or

c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under paragraph 63.

62. If EPA exercises option b above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that EPA imposes in its decision that is within Respondent's control. If Respondent does not complete the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 63, below.

63. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

a. If Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO, Respondent must pay a penalty of $80,000 in lieu of completing the SEP.

b. If Respondent did not submit timely the SEP completion report, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

Penalty per violation per day	Period of violation
$100	1st through 14th day
$200	15th through 30th day
$250	31st day and beyond

64. EPA's determinations of whether Respondent completed the SEP satisfactorily and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

65. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 48, above, and will pay interest and nonpayment penalties on any overdue amounts.

66. Any public statement that Respondent makes referring to the SEP must include the following language: "Madison-Kipp Corporation undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Madison-Kipp Corporation for violations of the Clean Air Act."

67. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

68. If an event occurs which causes or may cause a delay in completing the SEP as required by this CAFO:

a. MKC must notify EPA in writing within 10 days after learning of an event which caused or may cause a delay in completing the SEP. The notice must describe the anticipated length of the delay, its cause(s), MKC's past and proposed actions to prevent or minimize the delay and a schedule to carry out those actions that are within MKC's control. MKC must take all reasonable actions to avoid or minimize any delay. If MKC fails to notify EPA according to this paragraph, MKC will not receive an extension of time to complete the SEP.

b. If the parties agree that circumstances beyond the control of MKC caused or may cause a delay in completing the SEP, the parties will stipulate to an extension of time no longer than the period of delay.

c. If EPA does not agree that circumstances beyond the control of MKC caused or may cause a delay in completing the SEP, EPA will notify MKC in writing of its decision and any delays in completing the SEP will not be excused.

d. MKC has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEP. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph b, above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

Supplemental Environment Project #2

69. Respondent must complete a second supplemental environmental project (SEP #2) designed to protect the environment and public health by reducing energy usage and associated air pollution.

70. At its Madison, Wisconsin, facility, Respondent must complete the SEP #2 as follows: over the course of twelve months, MKC must replace 87 windows with energy efficient, double-paned windows. The windows must be double-paned, contain argon air spaces, and be coated with "Low-E" coatings.

71. Respondent must spend at least $100,000 on the window replacement, including materials and labor.

72. Respondent certifies as follows:

> I certify that Madison-Kipp Corporation is not required to perform or develop the SEP by any law, regulation, order, or agreement or as injunctive relief as of the date that I am signing this CAFO. I further certify that Madison-Kipp Corporation has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.
>
> I certify that Madison-Kipp Corporation is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date that I am signing this CAFO (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not expired.

73. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

74. Respondent must submit a SEP #2 completion report to EPA by March 1, 2016. This report must contain the following information:

a. Detailed description of the SEP #2 as completed;

b. Description of any problems and the actions taken to correct the problems;

c. Itemized cost of goods and services used to complete the SEP #2 documented by copies of invoices, purchase orders or cancelled checks that specifically identify and itemize the individual cost of the goods and services;

d. Certification that Respondent has completed the SEP #2 in compliance with this CAFO; and

e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

75. Respondent must submit all notices and reports required by this CAFO by first-class mail to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch at the address provided in paragraph 49, above.

76. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

> I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

77. Following receipt of the SEP #2 completion report described in paragraph 74, above, EPA must notify Respondent in writing that:

a. It has satisfactorily completed the SEP #2 and the SEP #2 report;

b. There are deficiencies in the SEP #2 as completed or in the SEP #2 report and EPA will give Respondent 30 days to correct the deficiencies; or

c. It has not satisfactorily completed the SEP #2 or the SEP #2 report and EPA will seek stipulated penalties under paragraph 79.

78. If EPA exercises option b above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that EPA imposes in its decision. If Respondent does not complete the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 79, below.

79. If Respondent violates any requirement of this CAFO relating to the SEP #2 , Respondent must pay stipulated penalties to the United States as follows:

a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP #2 satisfactorily according to the requirements of this CAFO, Respondent must pay a penalty of $110,000, in lieu of completing the SEP.

b. If Respondent did not complete the SEP #2 satisfactorily, but EPA determines that Respondent made good faith and timely efforts to complete the SEP #2 and certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 71, Respondent will not be liable for any stipulated penalty under subparagraph a, above.

c. If Respondent completed the SEP #2 satisfactorily, but spent less than 90 percent of the amount set forth in paragraph 71, Respondent must pay a penalty of $20,000.

d. If Respondent did not submit timely the SEP #2 completion report, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

Penalty per violation per day	Period of violation
$100	1st through 14th day
$200	15th through 30th day
$250	31st day and beyond

80. EPA's determinations of whether Respondent completed the SEP #2 satisfactorily and whether Respondent made good faith and timely efforts to complete the SEP #2 will bind Respondent.

81. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 48, above, and will pay interest and nonpayment penalties on any overdue amounts.

82. Any public statement that Respondent makes referring to the SEP must include the following language: "Madison-Kipp Corporation undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Madison-Kipp Corporation for violations of the Clean Air Act."

83. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP #2.

84. If an event occurs which causes or may cause a delay in completing the SEP as required by this CAFO:

a. MKC must notify EPA in writing within 10 days after learning of an event which caused or may cause a delay in completing the SEP #2. The notice must describe the anticipated length of the delay, its cause(s), MKC's past and proposed actions to prevent or minimize the delay and a schedule to carry out those actions. MKC must take all reasonable actions to avoid or minimize any delay. If MKC fails to notify EPA according to this paragraph, MKC will not receive an extension of time to complete the SEP.

b. If the parties agree that circumstances beyond the control of MKC caused or may cause a delay in completing the SEP#2 , the parties will stipulate to an extension of time no longer than the period of delay.

c. If EPA does not agree that circumstances beyond the control of MKC caused or may cause a delay in completing the SEP #2, EPA will notify MKC in writing of its decision and any delays in completing the SEP will not be excused.

d. MKC has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEP #2. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph b, above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

General Provisions

85. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in this CAFO and the NOV.

86. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

87. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 85, above,

compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

88. Respondent certifies that it is now in compliance with the requirements that formed the basis of the allegations in this CAFO.

89. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

90. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any rights of judicial review under Section 307(b)(1) of CAA, 42 U.S.C. § 7607(b)(1).

91. The terms of this CAFO bind Respondent, its successors and assigns.

92. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

93. Each party agrees to bear its own costs and attorneys' fees in this action.

94. This CAFO constitutes the entire agreement between the parties.

Madison-Kipp Corporation, Respondent

Date	Anthony Koblinski President Madison-Kipp Corporation

United States Environmental Protection Agency, Complainant

Date	George T. Czerniak Director Air and Radiation Division U.S. Environmental Protection Agency, Region 5

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Docket No.

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

_____
Date

_____
Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Anthony Koblinski, President
Madison-Kipp Corporation
P.O. Box 8043
Madison, Wisconsin 53708-8043

Dear Mr. Koblinski:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves case docket no._____. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on _____.

Pursuant to paragraph 48 of the CAFO, Madison-Kipp Corporation must pay the civil penalty within 30 days of the date the CAFO was filed. Your check must display the docket number _____.

Please direct any questions regarding this case to Mr. Jose DeLeon, Associate Regional Counsel, (312) 353-7456.

Sincerely,

Sarah Marshall
Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Jose DeLeon/C-14J
Tom Roushar/WDNR
Bill Baumann/WDNR

Consent Agreement and Final Order
In the Matter of: Madison-Kipp Corporation
Docket No.

Certificate of Service

I certify that I filed two originals of the Consent Agreement and Final Order (CAFO), docket number _____ with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed one original to the Respondent by first-class, postage prepaid, certified mail, return receipt requested, addressed as follows:

Anthony Koblinski, President
Madison-Kipp Corporation
P.O. Box 8043
Madison, Wisconsin 53708-8043

I certify that I sent a copy of the CAFO by intra-office mail to:

Ann Coyle
Regional Judicial Officer (C-14J)
U.S. Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, Illinois 60604

I also certify that I mailed a copy of the CAFO by first-class mail to:

Thomas Roushar
South Central District Office, WDNR
3911 Fish Hatchery Road
Fitchburg, WI 53711

Bill Baumann, Chief of Compliance & Enforcement
Bureau of Air Management, WDNR
PO Box 7921
Madison, WI 53707-7921

On the_____ day of _____ 2015.

_____
Loretta Shaffer
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER(S): _____