

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL—8334—8]

**Clean Air Act Operating Permit Program; Petition for Objection to South Dakota State Operating Permit for GCC Dacotah Cement Manufacturing Plant, Rapid City, SD****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of direct final Order.

**SUMMARY:** This notice announces that the EPA Administrator has responded to a citizens' petition asking EPA to object to a State operating permit issued by the South Dakota Department of Environmental and Natural Resources (DENR). Specifically, the Administrator has partially granted and partially denied the petition submitted by Jeremy Nichols, and the other Petitioners, to object to the issuance of the operating permit issued to GCC Dacotah Cement Manufacturing Plant ("GCC Dacotah"), located in Rapid City, South Dakota.

Pursuant to section 505(b)(2) of the Clean Air Act (Act), Petitioners may seek judicial review of those portions of the petition which EPA denied in the United States Court of Appeals for the appropriate Circuit. Any petition for review shall be filed within 60 days of the date this notice appears in the **Federal Register**, pursuant to section 307(d) of the Act.

**ADDRESSES:** You may review copies of the final Order, the petition, and other supporting information at the Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado, 80202-1129 after June 30, 2007. EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the copies of these documents. You may view these documents Monday through Friday, 8 a.m. to 4 p.m., excluding federal holidays. If you wish to examine these documents, you should make an appointment at least 24 hours before the visiting day. The final Order is also available electronically at each of the following addresses: [http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/dacotah\\_decision2006.pdf](http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/dacotah_decision2006.pdf) and <http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitiondb2006.htm>

**FOR FURTHER INFORMATION CONTACT:** Christopher Ajayi, Environmental Engineer, Air and Radiation Program, Office of Partnerships and Regulatory Assistance, Mail Code 8P-AR, U.S. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver,

CO 80202-1129, telephone (303) 312-6320, or e-mail at [ajayi.christopher@epa.gov](mailto:ajayi.christopher@epa.gov).

**SUPPLEMENTARY INFORMATION:** The Clean Air Act (Act) affords EPA a 45-day period to review and object to, as appropriate, operating permits proposed by State permitting authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to State operating permits if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the Petitioner demonstrates that it was impracticable to object during the comment period or that the grounds for the objection or other issues arose after this period.

On January 18, 2006, the EPA received a petition from Petitioners requesting that EPA object to the issuance of the Title V operating permit issued by South Dakota Department of Environmental and Natural Resources (DENR) to GCC Dacotah Cement Manufacturing Plant in Rapid City, South Dakota ("the Facility").

The Petitioners request that EPA object to the issuance of the proposed permit and raise the following objections as the bases for their petition:

1. The permit fails to ensure low sulfur coal is utilized to ensure compliance with BACT for Sulfur Dioxide emissions;
2. the permit fails to require the baghouses and electrostatic precipitators for control of Particulate Matter (PM) be operated and maintained in any specific way to ensure they control particulate emissions within acceptable limits;
3. the permit is vague, lacks enforceability and is inadequate to ensure compliance with PM limits;
4. the permit fails to require sufficient monitoring of BACT for Nitrogen Oxide emissions;
5. the permit fails to require operation and maintenance of equipment according to manufacture's specification thereby failing to ensure compliance with BACT for CO emissions;
6. the permit fails to require continuous PM monitoring or in the alternative fails to require sufficient periodic monitoring of PM for several units (kilns and clinker coolers);
7. the permit does not require prompt reporting of permit violations;
8. the permit fails to require prompt reporting of permit deviations;
9. the permit fails to require sufficient periodic monitoring in Condition 6.1 for

the presence of uncombined water and/or its effects on opacity;

10. the permit fails to require sufficient periodic monitoring in Condition 6.4 and it is unclear how Test Method 201 (Method 201) will assure compliance with established limits;

11. the permit fails to require sufficient periodic monitoring in Condition 6.8 to ensure compliance with short-term BACT SO<sub>2</sub> and CO limits for kiln #6 system;

12. the permit is flawed in Condition 6.12 because it implies an affirmative defense to the Permittee with respect to injunction relief; and

13. the permit provides an inappropriate broad exemption for maintenance in Conditions 8.4 & 8.5 for Continuous Emissions Monitoring (CEMs) and Continuous Opacity Monitors (COMs) which render the Conditions unenforceable as a practical matter.

On June 15, 2007, the Administrator issued an Order in response to Petitioners' allegations outlined above. The Order explains the reasons for partially granting and partially denying objection #2 and granting objection #8 and directs DENR to revise certain permit conditions for clarification and/or include applicable provisions in the permit. The Order also directs DENR to take specific steps to improve compliance demonstration with certain permit conditions. Finally, the Order explains the reasons for denying the Petitioners' remaining claims.

Dated: June 22, 2007.

**Robert E. Roberts,**

*Regional Administrator, Region 8.*

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**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL—8334—5]

**Notice of Disclosure of Confidential Business Information Obtained Under the Comprehensive Environmental Response, Compensation and Liability Act to Subcontractors of EPA Contractor U.S. Army Corps of Engineers: Science Applications International Corporation, Harry-Torchiana, and CACI, Inc.****AGENCY:** Environmental Protection Agency.**ACTION:** Notice, request for comment.

**SUMMARY:** The U.S. Environmental Protection Agency ("EPA") hereby complies with the requirements of 40 CFR 2.310(h) for authorization to

disclose confidential business information ("CBI") submitted to EPA Region 9 pursuant to CERCLA to U.S. Army Corps of Engineers' contractors: Science Applications International Corporation ("SAIC") of Santa Barbara, California; Harry-Torchiana of San Francisco, California; and CACI, Inc., of Arlington, Virginia.

**DATES:** Comments may be submitted by July 13, 2007.

**ADDRESSES:** Comments should be sent to: Keith Olinger, Environmental Protection Agency, Region 9, SFD-7-5, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972-3125.

**FOR FURTHER INFORMATION CONTACT:** Keith Olinger, Superfund Division, Environmental Protection Agency, Region 9, SFD-7-5, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972-3125.

**Notice of Required Determinations, Contract Provisions and Opportunity to Comment**

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") as amended, (commonly known as "Superfund") requires completion of enforcement activities at Superfund sites in concert with other site events. EPA has entered into several contracts for enforcement support in relation to the Operating Industries, Inc. Superfund Site: (1) Contract No. W91238-05-F-0062, issued to SAIC by the U.S. Army Corps of Engineers ("CoE") pursuant to Interagency Agreement No. DW 96955495 between EPA and the CoE; (2) Contract No. W91238-07-C-0008 issued to Harry-Torchiana by the CoE pursuant to Interagency Agreement No. DW 96955495 between EPA and the CoE; and (3) Task Order 263 issued to CACI, Inc. under the U.S. Department of Justice's ("DOJ") MEGA2ALS contract, Contract No. 02-C-0437, pursuant to Interagency Agreement No. DW-15-95566201-1 between EPA and DOJ. Enforcement support services will be provided to EPA by SAIC, Harry-Torchiana, and CACI, Inc. EPA has determined that disclosure of CBI to SAIC, Harry-Torchiana, CACI, Inc., and their respective employees, is necessary in order for these companies to carry out their respective work for EPA under their respective contracts with the CoE and DOJ, as applicable. The information EPA intends to disclose includes submissions made by Potentially Responsible Parties to EPA in accordance with EPA's enforcement activities at the Operating Industries Inc., Superfund Site. The information would be disclosed to the above-named

contractors for any of the following reasons: to assist with document handling, inventory, and indexing; to assist with document review and analysis; to verify completeness; and to provide technical review of submittals. The respective contracts comply with all requirements of 40 CFR 2.310(h)(2). EPA Region 9 will require that each of the respective subcontractors' employees with access to CBI sign a written agreement that he or she: (1) Will use the information only for the purpose of carrying out the work required by the contract, (2) will refrain from disclosing the information to anyone other than EPA without prior written approval of each affected business or of an EPA legal office, and (3) will return to EPA all copies of the information (and any abstracts or extracts therefrom) upon request from the EPA program office, whenever the information is no longer required by the subcontractor for performance of the work required by the subcontract or upon completion of the subcontract.

Dated: April 6, 2007.

**Keith Takata,**

*Director, Superfund Division, U.S. EPA, Region IX.*

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**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-8334-2]

**Proposed Administrative Order on Consent—Belden Cribbing Site**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice and request for public comment.

**SUMMARY:** As required by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, *et seq.*, as amended ("CERCLA"), notice is hereby given that an Administrative Settlement Agreement and Order on Consent for Removal Action ("Agreement") is proposed by the United States, on behalf of the Environmental Protection Agency ("EPA"), and Union Pacific Railroad Company ("Union Pacific") for payment of certain response costs and for performance of a removal action at the Belden Cribbing Site, in Eagle County, Colorado ("Site").

The Site is located in a steep canyon on the slopes of Battle Mountain just south of the historic mining mill station of Belden, between the towns of Minturn and Red Cliff, in Eagle County,

Colorado. The Site includes at least twenty-one significant waste rock piles from former mining operations and a series of deteriorating wood cribbings holding up the waste piles, several of which are located on Union Pacific's right-of-way along the river at the bottom of the canyon. The removal action will address the threat posed by the potential collapse of the cribbing structures and the resulting deposition into the Eagle River of the waste rock. Waste rock entering the river would release large quantities of zinc, among other metals, endangering the trout fishery and other aquatic resources.

This Agreement requires Union Pacific to provide EPA with site access in order for EPA and its contractors to conduct necessary response actions within the Site in accordance with the EPA's June 2006 Action Memorandum. Union Pacific will either remove the track and ties on the Union Pacific right-of-way from Belden to the southern end of the Repository or will cover such track and ties in-place in order to create the necessary temporary access road. The Agreement also includes a grant of permanent access on Union Pacific's right-of-way for a waste rock repository, for seep collection systems and for additional rock-fall protection devices. EPA will construct and install the necessary repository, rock-fall protection devices and seep collection systems, as described in the Action Memorandum.

Under the Agreement, Union Pacific will reimburse the United States a portion of past and estimated future response costs incurred or to be incurred, respectively, by the United States at or in connection with the Site. EPA has notified the State of Colorado of this action pursuant to Section 106(a) of CERCLA.

**DATES:** Comments should be received by August 2, 2007. The Agency will consider all comments received on the proposed Agreement and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper or inadequate. The Agency's response to any comments received will be available for public inspection at the EPA Superfund Record Center, 1595 Wynkoop Street, 3rd Floor, in Denver, Colorado.

**ADDRESSES:** The proposed settlement and additional background information relating to the settlement are available for public inspection at the EPA Superfund Records Center, 1595 Wynkoop Street, 3rd Floor, in Denver, Colorado. Comments and requests for a