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Ken Kirk

May 27, 2014

Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Ms. Janet McCabe
Acting Assistant Administrator, Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Mr. Peter Tsirigotis
Director, Sector Policies and Programs Division
Office of Air Quality Planning and Standards
U.S. Environmental Protection Agency
Mail Code D205-01
Research Triangle Park, NC 27711

Re: Petition for Administrative Stay and Reconsideration of the Standards of
Performance for New Stationary Sources and Emission Guidelines for Existing
Sources: Sewage Sludge Incineration Units; Final Rule, 76 *Fed. Reg.* 15372-15454
(March 21, 2011)

Dear Administrator McCarthy:

Please find enclosed a petition by the National Association of Clean Water Agencies ("NACWA") for administrative reconsideration and stay of the Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Sewage Sludge Incineration Units, 76 *Fed. Reg.* 15372 (Mar. 21, 2011) (the "SSI Rule").

For the reasons set forth in the enclosed petition, NACWA urges EPA to grant an immediate stay and reconsideration of the SSI Rule in response to the U.S. Court of Appeals for the District of Columbia Circuit in *National Association of Clean Water Agencies v. EPA*, 734 F.3d 115 (D.C. Cir. 2013) ("NACWA"). After NACWA, EPA is no longer constrained by the view that SSIs must be regulated under Clean Air Act (CAA) § 129 rather than under CAA § 112. Due to this critical change in legal circumstances, EPA should reconsider regulation of SSIs under § 112. A stay of the

Honorable Gina McCarthy, U.S. Environmental Protection Agency

May 27, 2014

Page 2

SSI Rule compliance dates is essential to impart justice and to prevent further irreparable harm from the economic impacts and regulatory uncertainty imposed on municipalities and public clean water agencies while EPA reconsiders regulating SSIs under CAA § 112.

Please contact me or Mr. Chris Hornback at (202) 833-9106 or chornback@nacwa.org to discuss any questions regarding the enclosed petition.

Sincerely,

A handwritten signature in black ink, appearing to read "K Kirk".

Ken Kirk
Executive Director

Encl.

cc: Nancy Stoner, Office of Water
Andrew Sawyers, Office of Wastewater Management, Office of Water
Betsy Southerland, Office of Science & Technology, Office of Water
Avi Garbow, Office of General Counsel

U.S. ENVIRONMENTAL PROTECTION AGENCY

**IN RE: PETITION FOR ADMINISTRATIVE STAY AND RECONSIDERATION OF THE STANDARDS OF
PERFORMANCE FOR NEW STATIONARY SOURCES AND EMISSION GUIDELINES FOR EXISTING
SOURCES: SEWAGE SLUDGE INCINERATION UNITS; FINAL RULE
76 *FEDERAL REGISTER* 15372-15454 (MARCH 21, 2011)
DOCKET NO. EPA-HQ-OAR-2009-0559**

I. INTRODUCTION

Pursuant to section 705 of the Administrative Procedure Act (“APA”), 5 U.S.C. § 705, the National Association of Clean Water Agencies (“NACWA”) hereby petitions the U.S. Environmental Protection Agency (“EPA”) for an administrative stay of the Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Sewage Sludge Incineration Units, 76 Fed. Reg. 15372 (Mar. 21, 2011) (the “SSI Rule”). As set forth in this petition, justice requires an immediate stay of the SSI Rule to avoid massive expenditures of public funds to meet compliance limits which may be revised, ongoing regulatory uncertainty, and irreversible commitments of resources by municipalities and public clean water agencies while EPA responds to the remand order by the U.S. Court of Appeals for the District of Columbia Circuit in *National Association of Clean Water Agencies v. EPA*, 734 F.3d 115 (D.C. Cir. 2013) (“NACWA”). A stay of the SSI Rule compliance dates is necessary to impart justice and prevent irreparable harm.

Pursuant to section 307(d)(7)(B) of the Clean Air Act (“CAA”), 42 U.S.C. § 7607(d)(7)(B), NACWA also petitions EPA for reconsideration of the SSI Rule in order to set standards for sewage sludge incinerators (“SSIs”) under CAA § 112 rather than unnecessary and unduly onerous regulation under CAA § 129. Reconsideration is warranted because the D.C. Circuit’s holding in *NACWA* invalidated EPA’s prior interpretation that the CAA and D.C. Circuit precedent unambiguously compel the Agency to promulgate standards for SSIs under CAA § 129. In *NACWA* the D.C. Circuit held that regulation of SSIs under either CAA § 112 or § 129 are permissible interpretations of the statute, leaving EPA with legal authority under *Chevron v. NRDC*, 467 U.S. 837 (1984), to choose either approach as long as it provides a basis for doing so. *See NACWA*, 734 F.3d at 1128. This is authority EPA did not realize the CAA

conferred prior to the *NACWA* decision. Therefore, it is essential that EPA reconsider the SSI Rule in order to address this change in legal circumstances following the *NACWA* decision. EPA's decision to regulate SSIs under CAA § 112 or § 129 is clearly of central relevance to the outcome of the SSI Rule.

EPA also has authority under the general rulemaking provisions of CAA § 301 and principles of administrative law to initiate notice-and-comment rulemaking to address changes and to correct deficiencies in a rule, and indeed must do so when presented with information justifying changes to the rule. *See Oljato Chapter of the Navajo Tribe v. Train*, 515 F.2d 654 (D.C. Cir. 1975). Thus, justice requires an administrative stay and reconsideration because this is the only legally sound means for EPA to proceed after the *NACWA* decision and to give *NACWA* and the general public an opportunity to provide input on EPA's response. A stay is necessary to prevent irreparable harm because, absent a stay, municipalities and public clean water agencies around the country will be forced to spend non-recoupable public funds for compliance with emissions standards applicable to existing units, or to ensure that new units comply with new source performance standards, when those standards may change during the ongoing remand.

NACWA requests that EPA immediately stay the SSI Rule compliance dates pending the reconsideration process and promulgation of new regulations amending or replacing the SSI Rule.

II. BACKGROUND

NACWA is a national, not-for-profit association whose membership includes approximately 270 municipalities and public clean water agencies. *NACWA*'s members operate nearly 1,000 publicly-owned treatment works ("POTWs") that serve the majority of the sewered population of the United States. *NACWA*'s members own and operate approximately 110 SSIs affected by the SSI Rule.

For over 40 years, *NACWA* has been a leader in legal and policy issues affecting the public authorities responsible for cleaning the nation's wastewater. *NACWA* is at the forefront

of the development and implementation of scientifically-based, technically-sound, and cost-effective environmental programs for protecting public and ecosystem health.

As detailed in this petition, NACWA requests a stay of the SSI Rule and EPA reconsideration of whether regulation of SSIs under CAA § 112 or § 129 is the better technical and policy approach. The D.C. Circuit's holding in *NACWA* now makes clear that either approach is legally available to EPA, and a decision to regulate under § 112 would provide greater flexibility to achieve the emission reductions both EPA and NACWA support without forcing several SSIs out of operation and imposing overly stringent numerical standards on all SSIs. Regulating SSIs under § 112 would eliminate the need to address most or all of the issues on remand in *NACWA* because these issues would become moot or substantially narrowed if EPA uses its authority to adopt area source Generally Available Control Technology ("GACT") standards. The simplified approach NACWA urges would also better harmonize regulation of SSIs among the several federal environmental laws governing POTWs.

III. GROUNDS FOR STAY

Under APA § 705 EPA has the authority to postpone the effectiveness of the SSI Rule where "justice so requires" to allow for the remand proceedings order by the D.C. Circuit. EPA also has authority under CAA § 307(d)(7)(B) to postpone the SSI Rule effective dates for an initial three month period, based upon the same grounds underlying EPA's decision to grant reconsideration. Such an initial stay could then be extended as needed through the authority provided by APA § 705. Fundamental principles of justice, economy, and sound government strongly support a stay of the SSI Rule during these remand proceedings.

First, given that EPA is required to review various aspects of the SSI Rule on remand – including the methodology behind all of the new source performance standards ("NSPS") and emission guidelines ("EG") – a stay of the SSI Rule compliance dates will permit municipalities and clean water agencies to avoid unnecessary compliance expenditures based on efforts to achieve compliance with the remanded standards that are still in-flux. Currently, the latest compliance date for the SSI EGs is March 21, 2016 – less than two years from the date of this

petition. Yet compliance deadlines in state implementation plans (“SIPs”) must be no later than three years after approval, so some POTWs face even shorter compliance deadlines. Testing, engineering, and retrofitting SSIs with new pollution controls are costly and time consuming processes. NACWA members report that most pollution control projects aimed at complying with the remanded standards will take at least another 18-24 months to complete. Furthermore, many states have not or will not implement SIPs incorporating the § 129 compliance requirements; and a Federal Implementation Plan is likely at least a year from being issued. The above time is in addition to the time needed to evaluate and react to any changes arising out of EPA’s ongoing remand processes. These pressing timeframes make it very difficult to complete the required remand and promulgate revisions to the SSI Rule within the next two-to-three months as would be needed to avoid even greater compliance commitments by NACWA’s members.

Without a stay, a large number of municipalities and public authorities will incur significant expenditures with the uncertainty of trying to plan for compliance with standards that are still under review and that may change as a result of that review. All POTWs that incinerate sewage sludge have been forced to undertake planning and procurement activities in order to identify compliance gaps, locate capital project funding sources, acquire the necessary engineering services and equipment, and to complete the major facility additions and equipment installations required for most SSIs to comply with the SSI Rule. Unlike the private sector, municipalities face added challenges of longer-term financial planning requirements and uncertain financing options as state and local budgets and jobs are cut in the current challenging economic environment.

Importantly, these compliance expenditures are much greater than EPA had assumed; and many more POTWs than EPA originally estimated will require add-on pollution controls to comply with the SSI Rule emission standards, including POTWs EPA believed would not require any controls. For example, as discussed in recent meetings with EPA, CWA Authority Inc. (the NACWA member serving Indianapolis) has determined through stack testing that the utility’s four MHIs cannot achieve the NSPS for multiple pollutants (Hg, HCl, PM, SO₂).

Compliance is expected to require installation of wet Electrostatic Precipitators (“ESPs”), packed bed scrubbers, Regenerative Thermal Oxidizers (“RTOs”), and carbon absorbers at a capital cost of approximately \$51 million. The estimated compliance costs for this one municipality alone nearly exceeds the \$55 million total compliance cost EPA estimated for the *entire SSI source category*. See 76 Fed. Reg. at 15393 and Table 13. These SSIs will also require controls that EPA assumed would not be necessary – including RTOs and carbon absorbers.

NACWA determined that the required controls for most SSIs will be tremendously more expensive than EPA assumed. Of the 15 NACWA members who have compiled compliance cost estimates to date, 11 reported capital upgrades totaling more than \$148 million will be necessary to comply with the SSI Rule. This makes the expected compliance costs for just these 11 utilities nearly *three times greater* than the \$55 million in total capital costs EPA assumed for the SSI source category. These members report average compliance costs of \$5.7 million per SSI. Extrapolating these results to the full SSI source category, NACWA estimates that controls will be needed for 155 of 204 SSIs with total capital expenditures of \$883.5 million, dwarfing the \$55 million in capital costs EPA had assumed. *Id.* These cost estimates *do not include* operation, maintenance, testing, and other costs that also will be incurred due to SSI Rule requirements unless a stay is granted.

Even by EPA’s own (now clearly understated) cost estimate, POTWs will be forced to commit over \$55 million in compliance expenditures for planning, engineering, and procurement while EPA is still reviewing the standards. Even modest changes in the standards would make significant differences in whether these pollution controls are required for a number of POTWs. Particularly in light of the countervailing public interests discussed below, it would be unreasonable and fundamentally unjust for EPA to leave the current compliance deadlines in place during the SSI Rule remand and would irreparably harm municipalities to incur the resulting expenditures and regulatory uncertainty.

Second, because SSIs are already comprehensively regulated under the Clean Water Act Part 503 program, staying the effective date of the SSI Rule will not create public health or

environmental risks. When EPA created the Part 503 regulations, it identified the air pollutants emitted during sludge incineration and specified emission standards and management practices that are protective of public health and the environment. The Part 503 regulations contain emissions standards for many of the same pollutants addressed in the SSI Rule – including Hg, Cd, Pb, and CO – plus standards for other pollutants not covered by the SSI Rule. *See* 40 C.F.R. Part 503; NACWA Comments at p.5-7 (EPA-HQ-OAR-2009-0559-0097).¹ EPA has never questioned the efficacy of the Part 503 standards as being sufficiently protective of human health and the environment. The Part 503 standards will remain in effect – and SSIs will continue to comply with those standards – for the duration of a stay of the SSI Rule.

Third, leaving the current compliance deadlines in place will result in significant environmental impacts. Because several of the emission standards (*e.g.*, the NSPS/EG for Hg and dioxin/furans) are so difficult to achieve, some municipalities predict that no demonstrated control technologies exist that will allow them to incinerate in compliance with the rule. At least one NACWA member already shut down both of its SSIs due to the high cost of constructing and operating the air pollution control equipment needed to comply with the remanded standards. *See* Letters from Pequannock, Lincoln Park & Fairfield Sewerage Authority to NJDEP dated Jan. 6, 2014 and Mar. 18, 2014 (Attachment A). Without a stay, additional municipalities are expected to start the costly conversion to landfilling while EPA is still considering changes to the SSI Rule.

The environmental impacts of changing sludge management approaches are particularly significant, because landfilling is not an environmentally beneficial option for utilities that currently incinerate. Utilities that must switch to landfilling will incur millions of dollars in new construction costs for sludge treatment equipment, storage and loading facilities, and transportation costs to distant landfills. As pointed out in NACWA's comments on the proposed SSI Rule, diesel exhaust emissions from trucking sewage sludge to landfills located, in some

¹ This petition incorporates by reference NACWA's SSI Rule comments at EPA-HQ-OAR-2009-0559-0097, -0099, and -0127.

cases, more than 100 miles from the POTW will offset any decrease in emissions from incineration and tailpipe emissions are more difficult and costly to monitor and control. *See* NACWA Comments at p.17-18. The impacts are magnified when one also considers the resulting methane emissions from landfills, increased consumption of transportation fuel, traffic congestion, wear and tear on city streets, and other impacts on communities. *Id.* at p.2, 17-18.

IV. GROUNDS FOR RECONSIDERATION

Under CAA § 307(d)(7)(B), EPA must convene a proceeding for reconsideration where a change in circumstances or new information arises after a rulemaking and the new circumstances are of central relevance to the rule. EPA has utilized this reconsideration authority to amend rules to account for changed circumstances that come to light after taking final action. *See, e.g.*, 76 Fed. Reg. 80261 (Dec. 23, 2011) (amending area source standards for prepared feed manufacturing).

EPA also has independent authority under CAA §§ 301(a) and 112(d), and inherent authority under general principals of administrative law, to initiate a rulemaking to address changed circumstances – including changes of statutory interpretation or legal precedent. This authority provides an independent basis for reconsidering the SSI Rule in light of the changed circumstances in NACWA. EPA has also found its APA rulemaking authority to allow reconsideration of prior actions for CAA programs that are not subject to the special rulemaking procedures under CAA § 307(d). *See, e.g.*, 75 Fed. Reg. 82254, 82258 and 82261-62 (Dec. 30, 2010) (reconsidering title V program approvals after EPA’s GHG Tailoring Rule). It is likewise well settled that agencies have the authority – indeed an obligation – to reconsider their approach “if a significant factual predicate of a prior decision on the subject (either to promulgate or not to promulgate specific rules) has been removed.” *WWHT, Inc. v. FCC*, 656 F.2d 807, 819 (D.C. Cir. 1981), *citing Geller v. FCC*, 610 F.2d 973 (D.C. Cir. 1979); *see also, Bechtel v. FCC*, 957 F.2d 873 (D.C. Cir. 1992) (“changes in factual and legal circumstances may impose upon the agency an obligation to reconsider a settled policy or explain its failure to do so.”).

The SSI Rule was based on EPA's earlier view that the CAA unambiguously requires EPA to regulate SSIs as "solid waste incineration units" under § 129. Because EPA read the statute as constraining its authority to regulate SSIs differently, EPA at the time concluded that it "does not have the discretion" to regulate SSIs under § 112(d) and, further, that the decision in *NRDC v. EPA*, 489 F.3d 1250 (D.C. Cir. 2007) ("*NRDC*") "precludes" EPA from regulating SSIs under § 112(d). *See* 76 Fed. Reg. at 15383/2-3. In *NACWA*, the Court rejected both of EPA's positions, holding that:

- (1) The critical language in § 129 (*i.e.*, "from ... the general public") is ambiguous and that using "traditional tools of statutory construction ... either *NACWA*'s or EPA's interpretation of § 129(g)(1) is plausible," and
- (2) The decision in *NRDC* does not support EPA's reading because the Agency's focus on the word "any" is "largely irrelevant" to SSIs.

See 734 F.3d at 1128.

Reconsideration of the SSI Rule is clearly warranted in order for EPA to account for this change in legal circumstances arising from *NACWA*. After *NACWA*, EPA is no longer constrained by the view that it must set standards for SSIs under § 129, and it should reconsider whether regulating SSIs under § 112(d) is the better scientific and policy decision.

EPA has determined that all SSIs are area sources of hazardous air pollutants. *See* 67 Fed. Reg. 6521 (Feb. 12, 2002). Regulating SSIs as area sources under § 112 would permit EPA to require more cost-effective GACT standards that recognize the area source status of SSIs, while achieving the emission reductions and best operating practices from SSIs that both EPA and *NACWA* support. Such standards for SSIs most likely would focus on achieving improved combustion and operating practices and optimizing existing pollution control equipment. This approach would eliminate the negative consequences of overly stringent numerical § 129 standards derived from limited MACT floor datasets, thereby greatly reducing compliance costs. Regulating SSIs as area sources under § 112 would also avoid unnecessary regulatory burdens.

Under § 129, every SSI will need to obtain a Title V permit regardless of emission level. By contrast under § 112, only those SSIs considered major sources of criteria pollutants would need a Title V permit.

As this petition demonstrates, the cost savings of regulating SSIs under § 112 could avoid hundreds of millions of dollars in compliance expenditures for the affected municipalities and clean water agencies. EPA should use the most cost effective regulatory approach available, particularly when EPA's cost-benefit analysis for the SSI Rule estimated monetized benefits of only \$19 million to \$47 million (@ 7% discount value), compared to significantly larger compliance costs. *See* 76 Fed. Reg. at 15400.

In addition, regulating SSIs using § 112 area source standards would eliminate as moot many or all of the issues EPA must address on remand from the D.C. Circuit. The Court remanded several core aspects of the SSI Rule, in effect requiring further evidence and explanation for all of the SSI Rule NSPS and EG. The Court issued remand instructions to EPA as follows:

- (1) Explain why the Part 503 regulations control for non-technology factors, and specifically to provide “evidence that air pollution control technology will achieve substantially the same performance across incinerators without regard to the particular incinerator on which it is installed,” *see* 734 F.3d at 1137;
- (2) Explain why the upper prediction limit (“UPL”) represents the average emissions limitation achieved by the best performing 12% of incinerators, specifically how the average means the average of a future 3-run compliance test, *see* 734 F.3d at 1143-44;
- (3) Demonstrate with “substantial evidence” why the UPL reasonably estimates the worst foreseeable SSI operating conditions, including why “sewage sludge variability will have a negligible effect on emissions,” *see* 734 F.3d at 1148-49;

- (4) Explain why the UPL accounts for more than intra-unit variability and, if so, to develop MACT floor datasets that are truly representative of variations in regions, climates, and populations, *see* 734 F.3d at 1151; and
- (5) Demonstrate with “substantial evidence” why using a statistical analysis, and the variables EPA chose for that analysis, can determine whether a limited dataset is representative of incinerators for which it has no data. *See* 734 F.3d at 1154.

If EPA decides to proceed with a § 129 rule, EPA must respond to these instructions with further explanations and supporting evidence that were not provided during the rulemaking. To do this, EPA would need to evaluate variability in SSI operating conditions, identify the worst foreseeable operating conditions affecting emissions from SSIs, and account for the impact of those conditions on the emissions performance of the top performing unit (for the NSPS) and best performing 12% of units (for the EG). Then EPA would need to reevaluate the test data it used to set the original MACT floors to determine whether those data are representative of the worst foreseeable operating conditions for those SSIs and whether those conditions are reflective of the range of operating conditions encountered by other best performing units. If they are not, EPA must collect more representative emissions performance data for the top 12% of MHIs and FBIs, or develop a variability factor based on Part 503 data, before applying the UPL methodology to estimate average emissions levels achieved over all foreseeable conditions.

None of these issues remain if EPA grants this petition and proceeds with a § 112 rule, because EPA will not be constrained to set numerical MACT floor standards as mandated for solid waste incineration units under § 129. Utilizing GACT level controls for SSIs would also harmonize regulation of SSIs under the CAA with the existing CWA Part 503 regulations. This would avoid the need for a future rulemaking as EPA anticipated would be necessary to fix conflicting and burdensome emission standards, operational standards, management practices, and other requirements between the Part 503 regulations and the current SSI Rule. *See* 76 Fed. Reg. at 15376.

Finally, nothing in CAA § 112(d)(7), or in general principles of administrative law, would prevent EPA from withdrawing the existing § 129 standards for SSIs based upon the change in legal circumstances arising from the *NACWA* case and choosing to regulate SSIs under § 112. Section 112(d)(7) states:

No emission standard or other requirement promulgated under this section shall be interpreted, construed or applied *to diminish or replace the requirements of a more stringent emission limitation or other applicable requirement* established pursuant to section 7411 of this title, part C or D of this subchapter, or other authority of this chapter or a standard issued under State authority.

(Emphasis added.) EPA would not diminish or replace “requirements” of a more stringent emission limitation by granting *NACWA*’s petition for reconsideration and deciding to use its authority to regulate SSIs under § 112, instead of under § 129. Doing so would merely create applicable “requirements” for SSIs under § 112, rather than under § 129, as *NACWA* held both are legally permissible alternatives. Indeed, reading § 112(d)(7) as prohibiting such a change would amount to an absurdity because EPA could not correct a mistake in an earlier interpretation of the statute if doing so made the resulting standards less stringent.

The recently released decision in *NRDC v. EPA*, No. 10-1371 (D.C. Cir. Apr. 18, 2014) (“*Portland Cement II*”), reinforces EPA’s authority to regulate SSIs under § 112. In *Portland Cement II*, the D.C. Circuit upheld EPA’s position that § 112(d)(7) is “simply a savings clause that makes clear that Section 112 does not supersede the requirements of other, more restrictive provisions of the Act.” *Id.* slip op. at 8. EPA was opposing an argument advanced by environmental petitioners in the case that § 112(d)(7) amounts to an “anti-backsliding” provision preventing EPA from promulgating less stringent standards for particulate matter following remand proceedings. EPA argued that it does not read § 112(d)(7) as prohibiting changes in emission standards in order to address the Court’s remand, and the D.C. Circuit endorsed this as a permissible reading of the statute.

V. CONCLUSION

The issues raised in this petition meet the standards for reconsideration and stay of the SSI Rule under both CAA § 307(d)(7)(B) and APA § 705. EPA also has independent authority under the CAA and the APA to undertake the requested reconsideration and rulemaking processes to address the changed circumstances arising from the *NACWA* decision. We urge EPA to grant an immediate stay of the SSI Rule to impart justice and prevent irreparable harm from the economic impacts and regulatory uncertainty imposed on municipalities and public clean water agencies while EPA reconsiders regulating SSIs under CAA § 112.

NACWA has a long history of working cooperatively and effectively with EPA to address some of the nation's most important clean water challenges. NACWA stands ready to work with EPA to correct the critical aspects of the SSI Rule of concern to the nation's public clean water agencies.

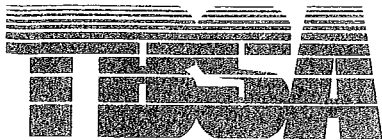
May 27, 2014

Respectfully submitted,

Chris Hornback
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Attachment A



"TWO BRIDGES"

THE PEQUANNOCK, LINCOLN PARK AND FAIRFIELD SEWERAGE AUTHORITY
P.O. BOX 188, LINCOLN PARK, N.J. 07035 • TEL: (973) 696-4494 • FAX: (973) 305-1764
tbsa@ensocorp.net

January 6, 2014

CERTIFIED MAIL/RRR

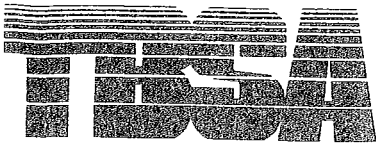
Francis Steitz, Asst. Director
NJDEP - Air Quality Permitting Program
Bureau of Air Permits
401 E. State Street, 2nd floor
P.O. Box 420, Mail Code 401-02
Trenton, NJ 08625-0420

Re: Request for Revocation of Operating Permit
Pequannock, Lincoln Park & Fairfield ("Two Bridges") Sewerage Authority
PCP970002 (Incinerator #2) and PCP970003 (Incinerator #1)

Dear Mr. Steitz:

This letter is intended to notify the New Jersey Department of Environmental Protection ("NJDEP") of a decision reached by the Pequannock, Lincoln Park & Fairfield ("Two Bridges") Sewerage Authority relative to future operation of its sewage sludge incinerators.

As you are aware, Two Bridges operates two primary sewage sludge fluidized bed incinerators pursuant to Operating Permit PCP970002 (Incinerator #2) and Operating Permit PCP970003 (Incinerator #1). As you are also aware, USEPA recently adopted Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources for Sewage Sludge Incinerators, 40 CFR Part 60 at Federal Register, Volume 76, No. 54, page 15372. This rule establishes emissions standards based upon Maximum Achievable Control Technology (MACT) for fluidized bed incinerators for the following pollutants: Carbon Monoxide (CO); Nitrogen Oxides (NOx); Sulfur Dioxide (SO₂); Particulate Matter (PM); Hydrogen Chloride (HCl); Cadmium (Cd); Mercury (Hg); Lead (Pb); Dioxins and Dibenzofurans, toxic equivalency (CDD/CDF, TEQ) and Dioxins and Dibenzofurans, total mass balance (CDD/CDF, TMB). An evaluation of the Two Bridges incinerators has been performed to assess the ability of the existing incinerators to achieve these standards and what, if any, upgrades would be necessary to achieve compliance. Pursuant to the findings of a report prepared by Black & Veatch (B&V), dated March, 2013 entitled, "Two Bridges Sewerage Authority, USEPA Sewage Sludge Incinerator Rule Compliance Alternative Sludge Disposal Options Cost Evaluation," the cost to achieve compliance is significant. The Report concludes that, from a financial standpoint, the costs of upgrading TBSA's incinerator system to meet the EPA rules are significantly higher than the costs of the alternatives evaluated for offsite sludge disposal. The Report specifically concludes that, "the life cycle cost comparison... clearly indicates that continuation of on-site incineration is not cost effective."



"TWO BRIDGES"

The Authority agrees that continuation of on-site incineration is not cost effective due to the recent change in regulatory standards, and has further determined that it is appropriate to discontinue its incineration operation on or before March 1, 2016. This letter is therefore submitted to request that as of March 1, 2016, or such earlier date as TBSA may determine to cease operation, that the NJDEP withdraw Operating Permit PCP970002 and Operating Permit PCP970003.

Pursuant to the final SSI Rule, applications for a Title V Operating Permit ("TVOP") must be filed by March 2014, and incinerators must be in compliance with the terms of the SSI Rule by March 21, 2016 (five years from the effective date of the rule). As TBSA intends to abandon on-site incineration prior to March 21, 2016, and its incinerators will not be regulated by the final rule, TBSA will not apply for a Title V Operating Permit (TVOP). TBSA requests confirmation that it is relieved from the requirements of Section 129 and/or 40 CFR 60 Subpart Mmmm relative to the submission of a Title V Permit application for facilities which will not operate beyond March 1, 2016.

The Authority appreciates the assistance provided by NJDEP to date. Please contact me directly at (973) 696-4494, should you have any questions or concerns relative to this request.

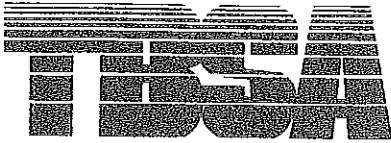
Sincerely,

A handwritten signature in black ink, appearing to read 'Robert N. Bongiovanni', with a stylized flourish at the end.

Robert N. Bongiovanni, P.E.
Executive Director

c: Via Regular Mail

Judith A. Enck, Regional Administrator, USEPA
John Filippelli, Director, USEPA
Bob Perciasepe, Deputy Administrator, USEPA
Janet McCabe, Acting Assistant Administrator, USEPA, Office of Air and Radiation
Nancy Stoner, Acting Assistant Administrator, USEPA, Office of Water
Peter Tsirigotis, Director, USEPA, Sector Policies and Programs Division
William O'Sullivan, Director, NJDEP
Ed Chromanski, Director, NJDEP
Jennifer McClain, NJDEP
Michael E. Solla, TBSA
Ernie DeGraw, TBSA
Bob Rectanus, Black & Veatch
John J. Scheri, P.E., HMM
John Napolitano, Esq
Diane Alexander, Esq.



"TWO BRIDGES"

THE PEQUANNOCK, LINCOLN PARK AND FAIRFIELD SEWERAGE AUTHORITY
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CERTIFIED MAIL

March 18, 2014

Jennifer McClain
Northern Regional Office
Dept. of Environmental Protection
Bureau of Enforcement Operations
7 Ridgedale Avenue
Cedar Knolls, NJ 07927

Dear Ms. McClain:

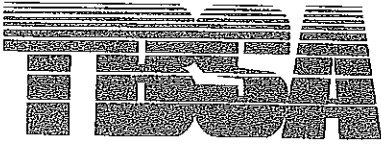
Per our conversation of March 11, 2014, the Authority is advising NJDEP that incineration of sludge will cease before midnight on March 21, 2014 on both Incinerator No. 1 and Incinerator No. 2.

Sincerely,

Ernest DeGraw
Plant Superintendent

EDG:lt

cc: TBSA Board Members
Robert N. Bongiovanni, P.E., Executive Director
Michael E. Solla, Assistant Executive Director
Gina McCarthy, Administrator, USEPA
Bob Perciasepe, Deputy Administrator, USEPA
Janet McCabe, Acting Assistant Administrator, USEPA, Office of Air and Radiation
Nancy Stoner, Acting Assistant Administrator, USEPA, Office of Water
Judith A. Enck, Regional Administrator, USEPA
John Filippelli, Director, USEPA
Peter Tsirigotis, Director, USEPA, Sector Policies and Programs Division
J William O'Sullivan, Director, NJDEP
Ed Chromanski, Director, NJDEP
Bill Kuehue, NJDEP
Anthony Pilawski, NJDEP
Ed Hudzina, NJDEP



"TWO BRIDGES"

Lou Barry, Chavond-Barry Engineering
Nathan Gardner Andrews, NACWA
Bob Rectanus, Black & Veatch
John J. Scheri, P.E., HMM
John A. Napolitano, Esq.
Diane Alexander, Esq.