

IN THE IOWA DISTRICT COURT FOR LEE COUNTY

STATE OF IOWA, ex rel., IOWA
DEPARTMENT OF NATURAL
RESOURCES (99AG23542),

Plaintiff,

vs.

ROQUETTE AMERICA, INC., a Delaware
Corporation,

Defendant.

LAW NO. CVEQ 5288 (S)

FILED
FEB 16 AM 9:11
DISTRICT COURT
LEE COUNTY, IOWA
CLERK

CONSENT ORDER, JUDGMENT
AND DECREE

NOW on this 16th day of Feb., 2010, the Court is presented with the

plaintiff's petition seeking civil penalties and injunctive relief pursuant to Iowa Code section
455B.146. The Court having read the petition and being otherwise advised by the parties

FINDS:

1. The Court has jurisdiction of the parties and the subject matter of this action and the
parties consent to entry of this Consent Order, Judgment and Decree.

2. Defendant Roquette America, Inc. (Roquette) admits, for this action only, the
violations alleged in the Petition at Law. Roquette states that the acts or omissions giving rise to
the violations were not knowingly committed in violation of the law and expressly states that any
violations were unintentional. Roquette further states that it has worked in a cooperative and
timely manner with the State of Iowa to resolve these issues.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

Civil Penalty

1. Defendant Roquette America, Inc. is assessed a civil penalty of One Million and no/100 Dollars (\$1,000,000.00) for the violations admitted herein. Roquette shall pay said penalty within ten (10) days of the entry of this Consent Order, Judgment and Decree. Roquette shall also pay interest pursuant to Iowa Code section 535.3(1) on any unpaid balance. Payment of the civil penalty and interest shall be made payable to the State of Iowa and submitted to the plaintiff's attorney, David R. Sheridan, at the address noted below. Roquette shall not deduct any penalties paid under this Consent Order, Judgment and Decree pursuant to this paragraph or paragraph 12, in calculating its federal or state income tax.

Injunctive Relief

2. Defendant Roquette America, Inc. is permanently enjoined from violations of 567 Iowa Admin. Code 22.1(1), 22.4, 33.3(2)"b," and 33.3(10)-(18).

3. For purposes of this Consent Order, Judgment and Decree, "new feedhouse" shall refer to the feedhouse to be constructed and installed by Roquette at its corn wet milling facility in Keokuk, Iowa, consisting of the following new or modified emission sources:

Emission Point	Emission Unit (New)	Description
138-01	FH-01N	Fiber Press - Collection Conveyor Exhaust
138-03	FH-04N	Offals Dust Collection
138-04	FH-05N	Feed Hammermill Dust Collection
138-05	FH-06N	Truck Loadout Dust Collection System
	FH-16N	STD Product Bucket Elevator

	FH-17N	Pellet Cooler Discharge Bucket Elevator
	FH-18N	Truck Loadout Bucket Elevator
138-06	FH-08N	#4 Pellet Cooler
	FH-09N	#3 Pellet Cooler
139-01	FH-10N	Fiber Steam Tube Dryer, 2 Stages

Emission Point	Emission Unit (Modified)	Description
59C-F-1	FH-30N	Feed House Rail Loading
138-02	FH-02N	#1 Sharples Exhaust
138-02	FH-03N	#2 Sharples Exhaust
140-F-5	FH-140N	Feed Truck Loadout Bldg
140-04	FH-15N	Gluten Loadout Bin #1
140-02	FH-13N	Pellet Loadout Bin#1
140-03	FH-14N	Pellet Loadout Bin #2
140-01	FH-12N	Gluten Loadout Pneumatic Receiver

4. For purposes of this Consent Order, Judgment and Decree, "old feedhouse" shall refer to the following emission sources to be removed:

Emission Point	Emission Unit (to be removed)	Description
59A-10	FH-5A,B	S/R Dryer Dump Stack
59A-11	FH-22A,B	S/R Dryer Dump Stack
59-3	FH-11A,B, 22A,B, 5A,B	#2 B/M Dryer Stack
59-4	FH-12A,B, 22A,B, 5A,B	#1 B/M Dryer Stack

59-6	FH-13	#1 Aerodyne Baghouse
59-7	FH-14	#2 Pellet Cooler, #2 Cyclone
59-17	FH-14	#2 Pellet Cooler, #1 Cyclone
59-12	FH-15	#1 Pellet Cooler
59A-1	FH-16	#8 Feed Bin
59A-2	FH-17	#7 Feed Bin
59A-3	FH-18	#6 Feed Bin
59A-4	FH-19	#5 Feed Bin
59-9	FH-24	#2 Aerodyne
59A-8	FH-21	Patio Bucket Elevator
59-14	FH-28	Pellet Bucket Elevator
59-11	FH-25	Offals Dust Collector
59-10	FH-26	#1 Pellet Mill Surge Bin - Bin Vent
74-E	FH-31	24" Conveyor Exhaust

5. Roquette has submitted to the Iowa Department of Natural Resources (IDNR) a draft PSD permit application for the construction and installation of the new feedhouse. Roquette shall, no later than thirty (30) days after receipt of a written request from IDNR, provide IDNR with additional information requested relating to the PSD permit application for the new feedhouse.

6. Roquette shall, within fifteen (15) days of the start of construction of the new feedhouse, provide IDNR with written notice of the date construction commenced. "Commence" shall have the same meaning as defined in 567 Iowa Admin. Code 33.3(1).

7. Defendant Roquette America, Inc. shall construct, install and have operational the new feedhouse no later than thirty (30) months after issuance by the IDNR of a construction permit(s) for the new feedhouse.

8. Emission Units in both the old and new feedhouse may operate at the same time except that the Stearns Rogers dryers (FH22A, FH-22B, FH-5A, FH-5B) and both Barr-Murphy Dryers (FH-12A, FH-12B, FH-11A, FH-11B) in the old feedhouse may not operate at the same time as both of the #1 and #2 Fiber Steam Tube Dryers (FH-10N) in the new feedhouse. The #2 Barr-Murphy Dryer (FH-11A and FH-11B) will not operate when the new fiber press collection conveyor (FH-01N) is in service. The #1 Barr-Murphy Dryer (FH-12A and FH-12B) will not operate when the relocated dewatering equipment (FH-02N and FH-03N) is in service. Upon the new #2 Steam Tube Dryer (FH-10N) being placed in service, Roquette shall immediately cease operation of and concurrently and permanently remove from service the #1 and #2 Stearns Rogers Dryers (FH-22A, FH-22B, FH-5A, FH-5B). Roquette shall permanently remove from service the #1 Barr-Murphy Dryers (FH-12A and FH-12B) and #2 Barr-Murphy Dryers (FH-11A and FH-11B), no later than thirty-two (32) and twenty-eight (28) months after issuance of construction permits for the new feedhouse, respectively.

9. The new feedhouse shall apply the Best Available Control Technology (BACT) for each pollutant for which a net emissions increase would occur, and comply with New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants requirements. Only contemporaneous PM, PM₁₀, and CO emission reductions associated with the shutdown of the old feedhouse, which exceed the emissions that would have been controlled by the timely application of BACT, may be considered in the New Source Review (NSR)

applicability determination during the new feedhouse permit application development and review or in the NSR applicability determination for future contemporaneous projects. The contemporaneous SO₂, NO_x, and VOC emission reductions associated with the shutdown of the old feedhouse, may be considered in the New Source Review (NSR) applicability determination during the new feedhouse permit application development and review or in the NSR applicability determination for future contemporaneous projects.

Environmental Management Information System

10. Defendant Roquette America, Inc. has agreed and shall fully implement an environmental management information system ("EMIS") entitled ENVIANCE commencing in the 1st quarter of 2010. The EMIS shall provide consolidation and centralization of data relating to air pollution control, thereby, facilitating Roquette's environmental compliance. The air pollution control EMIS shall be fully implemented and in use no later than December 31, 2010, and the hazardous and solid waste as well as wastewater EMIS shall be fully implemented and in use no later than December 31, 2011. All EMIS shall be maintained and used through December 31, 2015.

11. Defendant Roquette America, Inc. shall submit to the IDNR an annual performance report documenting the implementation and actual use of the EMIS and evaluating the performance of the EMIS in securing environmental compliance and any significant environmental and public health protection benefits. The reports shall be submitted on or before June 1, for the preceding calendar year, commencing on June 1, 2010.

Stipulated Civil Penalties for Future Violations

12. Defendant Roquette America, Inc. shall pay to the State of Iowa stipulated civil penalties as follows:

- a. \$10,000 per day for each day of violation of paragraphs seven (7) and eight (8) above,
- b. \$500 per day for each day of violation of paragraph 10, and
- c. \$100 per day for each day of violation of paragraph 11.

Payment shall be made payable to the State of Iowa and submitted to the plaintiff's attorney, David R. Sheridan, at the address noted below, no later than ten (10) days after receipt of a written demand from IDNR for payment, or after a court order requiring such payment, whichever is later.

13. Payment of any civil penalties provided for in this Consent Order, Judgment and Decree shall not relieve Roquette America, Inc. from any obligations established by this Consent Order, Judgment and Decree or other provision of law. Plaintiff State of Iowa, *ex rel.*, Iowa Department of Natural Resources may at any time, in lieu of collecting a particular stipulated civil penalty provided for herein, seek judicial assessment of full civil penalties pursuant to Iowa Code section 455B.146. In any event, the Plaintiff may at any time seek entry of contempt and appropriate sanctions and relief for any willful failure to comply with the requirements of this Consent Order, Judgment and Decree.

Force Majeure

14. If Defendant Roquette America, Inc. is unable to meet any of the deadlines set forth in this order, Roquette shall provide notice to the Plaintiff within ten (10) business days

specifying the delayed event, the cause of the delay, its possible duration, Roquette's efforts to remedy the situation, and the expected effect of the delay upon the schedule contained in this order. Roquette shall adopt all reasonable measures to avoid or minimize such delays. Failure by Roquette to provide notice to the Plaintiff of an event which causes or may cause a delay or impediment to performance shall render this paragraph voidable by Plaintiff as to the specific event for which Roquette has failed to comply with such notice requirement, and, if voided, is of no effect as to the particular event involved.

15. The Plaintiff shall notify Roquette in writing regarding Roquette's claim of a delay or impediment to performance as soon as practicable, but in any event within thirty (30) days after receipt. If the Plaintiff agrees that the delay or impediment to performance has been or will be caused by circumstances beyond the control of Roquette, and that Roquette could not have prevented the delay by the exercise of due diligence, the parties shall stipulate to an extension of the required deadline(s) for all requirement(s) affected by the delay by a period equivalent to the delay actually caused by such circumstances. Roquette shall not be liable for any stipulated penalties for the period of any such delay.

16. If the Plaintiff does not accept Roquette's claim that a delay or impediment to performance is caused by a *force majeure* event, to avoid payment of stipulated penalties, Roquette must submit the matter to this Court for resolution within twenty (20) business days after receiving notice of the Plaintiff's position by filing an application for determination by this Court. Once Roquette has submitted this matter to this Court, the Plaintiff shall have twenty (20) business days to file its response to said application.

17. If Roquette submits the matter to this Court for resolution and the Court determines

that the delay or impediment to performance has been or will be caused by circumstances beyond the control of Roquette, including any entity controlled by Roquette, and that Roquette could not have prevented the delay by the exercise of due diligence, Roquette shall be excused as to that event(s) and delay (including stipulated penalties), for a period of time equivalent to the delay caused by such circumstances. Roquette shall bear the burden of proving that any delay of any requirement(s) of this Consent Order, Judgment and Decree was caused by or will be caused by circumstances beyond its control, including any entity controlled by it, and that Roquette could not have prevented the delay by the exercise of due diligence. Roquette shall also bear the burden of proving the duration and extent of any delay(s) attributable to such circumstances. An extension of one compliance date based on a particular event may, but does not necessarily, result in an extension of a subsequent compliance date or dates.

18. Unanticipated or increased costs or expenses associated with performance of Roquette's obligations under this Consent Order, Judgment and Decree shall not constitute circumstances beyond the control of Roquette, or serve as a basis for an extension of time under this paragraph. However, failure of a permitting authority to issue a necessary permit or other required approval in a timely fashion is an event of *force majeure* provided that Roquette can meet its burden of demonstrating that it has:

- a. submitted a timely and complete application,
- b. responded to requests for additional information by the permitted authority in a timely fashion, and
- c. prosecuted appeals of any disputed terms and conditions imposed by the permitting authority in an expeditious fashion.

Resolution of Claims

19. Satisfaction of all of the requirements of this Consent Order, Judgment and Decree constitutes full settlement of and shall resolve all past civil and administrative liability of Defendant Roquette America, Inc. to the Plaintiff for the violations alleged in the Plaintiff's Petition at Law under the following statutory and regulatory provisions:

a. *Prevention of Significant Deterioration.* PSD requirements at Part C of the Act and the regulations promulgated thereunder at 40 C.F.R. Part 52.21, and the SIP provisions which incorporate and implement the above-listed federal statutes and regulations.

b. *State Implementation Plan Requirements.* SIP requirements for permitting of the construction and operation of new and modified stationary sources, requirements relating to emission limits in permits issued for such construction and operation, and requirements for payment of fees based on quantity of emissions.

c. *State Regulations not Included Within the State Implementation Plan Requirements.* Any state regulations that may not be incorporated into the state implementation plan.

Termination

20. This Consent Order, Judgment and Decree shall be subject to termination upon motion by any party after Roquette has satisfied all requirements of this Consent Decree. At such time, if Roquette believes that it is in compliance with the requirements of this Consent Decree, and has paid the civil penalty and any stipulated penalties required by this Consent Decree, then

Roquette shall so certify in writing to the Plaintiff, and unless the Plaintiff objects in writing with specific reasons within forty-five (45) days after receipt of the certification, the Court shall order that this Consent Decree be terminated on Roquette's motion. If the Plaintiff objects to Roquette's certification, then Roquette may file an application with the Court seeking a hearing and resolution of the matter. In such case, Roquette shall bear the burden of proving that this Consent Decree should be terminated.

Modification

21. This Consent Order, Judgment and Decree may be amended as necessary to accommodate changed circumstances. The Consent Decree may be amended by the written agreement of the parties or by Order of the Court.

Notice

22. For purposes of implementation of this Consent Order, Judgment and Decree, all technical submittals, documents or correspondence shall be sent to the following:

Christopher A. Roling
Senior Environmental Engineer
Iowa Department of Natural Resources
7900 Hickman Road
Windsor Heights, IA 50324

William Gibson
Safety, Health and Environmental Manager
Roquette America, Inc.
1417 Exchange Street
Keokuk, IA 52632-6647

All legal notices, documents or correspondence shall be sent to the following:

David R. Sheridan
Assistant Attorney General
Environmental Law Division
Lucas Building, Ground Floor
321 E. 12th Street, Room 018
Des Moines, IA 50319

Robert J. Lambrechts, Esq.
Lathrop & Gage, LLP
10851 Mastin Blvd., Suite 1000
Overland Park, KS 66210-1669

Kelli Book, Attorney
Iowa Department of Natural Resources

7900 Hickman Road
Windsor Heights, IA 50324

A party may change either the notice recipient or the address for providing notices to it by serving all other parties with a notice setting forth such new notice recipient or address.

23. The Court retains jurisdiction of this matter to insure compliance with the terms of this Order.

24. The costs of this action are taxed to the defendant in the amount of \$ -0-

(Clerk to enter).

S/ M. A. BROWN

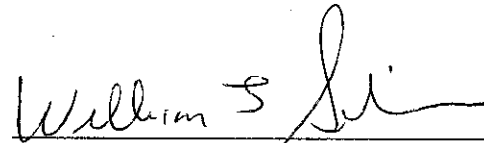
JUDGE, Eighth Judicial District of Iowa

Approved as to form:

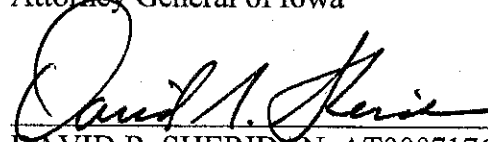
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