

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)
)
)
 MID-SOUTH STEEL PRODUCTS, INC.) **No. APCP-2022-053**
)
 Proceeding Under the)
 Missouri Air Conservation Law)

ADMINISTRATIVE ORDER ON CONSENT

NOTICE TO THE RESPONDENT

The issuance of this Administrative Order on Consent No. APCP-2022-053 (Order) by the Missouri Department of Natural Resources (Department) is a formal administrative action by the State of Missouri and is being issued because MID-SOUTH STEEL PRODUCTS, INC (Respondent) is in violation of Missouri Air Conservation Law, Chapter 643, of the Revised Statutes of Missouri (RSMo), and its implementing regulations. This Order is issued under Sections 643.060(4), 643.080, and 643.085, RSMo. Failure to comply with this Order is, by itself, a violation of the Missouri Air Conservation Law under Section 643.151.3, RSMo.

FINDINGS OF FACT

1. MID-SOUTH STEEL PRODUCTS, INC. is a for-profit corporation registered and in active status with the Missouri Secretary of State.

2. MID-SOUTH STEEL PRODUCTS, INC. owns and operates a specialty above ground and underground petroleum storage tank fabrication shop located at 2071 Corporate Circle Cape Girardeau, Cape Girardeau County, Missouri.

3. Part 70 Permit to Operate No. OP2016-018 requires the Respondent submit a completed operating permit renewal at least six (6) months prior to the permit expiration.

4. Missouri Air Conservation Regulation 10 CSR 10-6.065, "Operating Permits," requires the Respondent to file a completed application for renewal of this operating permit at least six (6) months before the date of permit expiration. In no event shall this time be greater than eighteen (18) months. Because OP2016-018 expired on August 29, 2021, the renewal application was due by February 28, 2021. The Department did not receive an application to renew OP2016-018 until June 14, 2021. Respondent is now operating with an expired permit.

5. On September 1, 2022, the Department issued Referral Notice of Violation (RNOV) RNOV No. AP22023 to the Respondent to document the violation identified in paragraph 4.

6. The Respondent's application to renew was received on June 14, 2021. The Air Pollution Control Program's permitting section is currently evaluating the Respondent's permit renewal application for OP2016-018.

STATEMENT OF VIOLATIONS

The Department finds that the following violation of the Missouri Air Conservation Law, Chapter 643, RSMo, and its implementing regulations have occurred, thereby subjecting the Respondent to penalties as described in Sections 643.151 and 643.085, RSMo:

7. On February 28, 2021, as identified above, the Respondent failed to submit a complete renewal application at least six (6) months prior to permit expiration. Respondent's permit expired on August 29, 2021.

AGREEMENT

8. The Department and the Respondent desire to amicably resolve all claims that the Department might bring against the Respondent for the violation of the Missouri Air Conservation Law and regulations described above and within RNOV No. AP22023. The Department and the Respondent agree that this Order resolves only the specific violations described herein, that this Order shall not be construed as a waiver or a modification of any requirements of the Missouri Air Conservation Law and regulations or any other source of law, and that this Order does not resolve any claims based on any failure by the Respondent to meet the requirements of this Order, or claims for past, present, or future violations of any statutes or regulations other than those specifically referenced herein.

9. The provisions of this Order apply to and bind the parties executing this Order, their agents, subsidiaries, successors, assigns, affiliates, and lessees, including the officers, agents, servants, corporations and any persons acting under, through, or for the parties agreeing hereto. Any changes in ownership or corporate status, including but not limited to any transfer of assets or real or personal property, do not affect the responsibilities of the Respondent under this Order. If the Respondent sells or otherwise transfers its business or the real estate that is the situs of the violation referenced in this Order, then the Respondent shall cause as a condition of such sale or transfer, that the buyer will assume the obligations of the Respondent under this Order in writing. In such

event, the Respondent shall provide thirty (30) days prior written notice of such assumption to the Department.

10. The Respondent agrees to comply with the Missouri Air Conservation Law and regulations and, in particular, to refrain from further violations of 10 CSR 10-6.065, for all future operations.

CORRECTIVE ACTIONS BY THE RESPONDENT

To resolve the remaining violation, the Respondent agrees to and will complete to the Department's satisfaction, the following schedule of compliance:

11. Work with the Department of Natural Resources' Air Pollution Control Program's Permitting Staff for the timely issuance of the renewal Operating Permit.

12. The Respondent may continue to operate under the authority of Operating Permit No. OP2016-018, subject to all permit conditions and requirements, until the Renewal Operating Permit is issued. Failure to comply with all conditions outlined in Operating Permit No. OP2016-018 constitutes a violation of this Order and violation of the Missouri Air Conservation Law and regulations.

OTHER PROVISIONS

13. This Order resolves the claims of the Department for the specific violations and concerns stated herein through the effective date of this Order.

14. The Department reserves all legal and equitable remedies available to enforce the provisions of this Order, except as stated in the previous paragraph. This Order shall not be construed to limit the rights of the Department to obtain penalties or injunctive relief under the Clean Air Act, the Missouri Air Conservation Law or the implementing regulations, or under other federal or state laws, regulations, or permit

conditions, except as expressly specified in the previous paragraph. The Department further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare of the environment arising at, or posed by the Respondent, whether related to the violations addressed in this Order or otherwise.

15. By signing this Order, all signatories assert that they have read and understand the terms of this Order, that they had the opportunity to consult with counsel, and that they have the authority to sign this Order on behalf of their respective parties.

16. This Order shall be construed and enforced according to the laws of the State of Missouri, and the terms stated herein shall constitute the entire and exclusive agreement of the parties hereto with respect to the matters addressed herein. This Order may not be modified orally.

17. If any provision of this Order is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

18. Penalty payments under this Order, including any stipulated penalties, are penalties within the meaning of Section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), and 26 C.F.R. § 1.162-21(a)(3)(i). For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2)(iii)(A), certain costs incurred by performance of this Order may qualify as restitution, remediation, or costs required to come into compliance with the law. **MID-SOUTH STEEL PRODUCTS, INC.** is solely responsible for providing to the Department complete, accurate, and necessary information by the close of any applicable tax year to complete a Form 1098-

F. Further, the Department shall not be responsible for any incomplete or inaccurate information nor the results of any tax audit. No portion of any penalties paid pursuant to this Order may be used to reduce any federal or state tax obligations, except as authorized by the Internal Revenue Service.

19. Nothing in this Order excuses the Respondent for any future non-compliance with the laws of the State of Missouri, and the Department expressly reserves the right to address future noncompliance in any manner authorized by law.

20. This Order will become final, effective, and fully enforceable upon the date the Department signs it. The Department shall send a fully executed copy of this Order to the Respondent for their records.

21. Should the Respondent fail to meet the expectations set out in Paragraphs 11 & 12, or any other terms of this Order, the Respondent Shall be subject to pay stipulated penalties in the following amount.

| <u>Days of Violation</u> | <u>Amount of Penalty</u> |
|--------------------------|--------------------------|
| 1 to 30 days | \$100 per day |
| 31 to 90 days | \$250 per day |
| 90 days and above | \$500 per day |

22. The Department may, in its sole discretion, reduce or waive any claim to stipulated penalties otherwise due under this Order. Stipulated penalties shall be paid by a **certified check** made payable to “Cape Girardeau County Treasurer, as custodian of the Cape Girardeau County School Fund” any such stipulated penalty shall be paid within ten (10) days of demand by the Department and shall be delivered to:

Accounting Program
Missouri Department of Natural Resources
P.O. Box 477
Jefferson City, Missouri 65102-0477

CORRESPONDENCE AND DOCUMENTATION

Correspondence or documentation with regard to this Order shall be directed to the following persons, subject to change upon written notification from either party:

For the Department:

Heather Lehman
Compliance and Enforcement Section
Air Pollution Control Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

For the Respondent:

Albert Underwood Jr.
President
Mid-South Steel Products Inc.
2071 Corporate Circle
Cape Girardeau, MO 63703-7671

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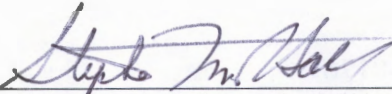
RIGHT OF APPEAL

By signing this Order, the Respondent waives any right to appeal, seek judicial review, or otherwise challenge this Order pursuant to Sections 643.130, 643.085, or 621.250, RSMo, Chapters 536, 643, or 640, RSMo, 10 CSR 10-1.030, or any other source of law.

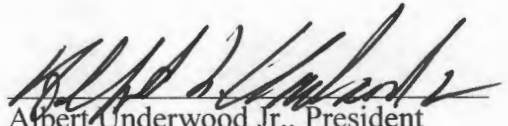
AGREED TO AND ORDERED:

**MISSOURI DEPARTMENT OF
NATURAL RESOURCES**

MID-SOUTH STEEL PRODUCTS, INC.



Stephen M. Hall, Director
Air Pollution Control Program



Albert Underwood Jr., President
Mid-South Steel Products, Inc.

Date: 9/1/2023

Date: 8/24/2023