



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI  
GOVERNOR

BETH NAGUSKY  
ACTING COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection  
FROM: Kurt Tidd, BAQ  
SUBJECT: Red Shield Acquisition, LLC d/b/a Old Town Fuel and Fiber  
DATE: January 6, 2011

\*\*\* \*\*

**Statutory and Regulatory References:**

Department Regulations authorizes the Department to impose reasonable and appropriate license conditions to ensure compliance with emission standards, regulations or orders. Red Shield Acquisition operates its facility under the terms and conditions of Air Emission License 1782 and subsequent amendments.

**Location:**

Old Town, Maine

**Description:**

Red Shield Acquisition violated requirements of its Air Emission License and amendments by failing to perform RATA's on their continuous emissions monitors, ventings of TRS gasses and various excess emissions.

**Environmental Issues:**

The Department relies on the licensing of facilities to ensure compliance with State Laws and Regulations. Through the licensing process, the Department is able to control the amount and types of pollutants that are emitted to the atmosphere within the State.

**Department Recommendation:**

Staff recommends approval of the Consent Agreement which requires Red Shield Acquisition to comply with the requirements of Department Regulations Chapter 140, Air Emissions License 1782 and provides for Civil Penalties in the amount of \$60,709.00. The penalty was a negotiated settlement based on the Air Bureau's penalty assessment guideline.



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

BETH NAGUSKY
ACTING COMMISSIONER

IN THE MATTER OF:

RED SHIELD ACQUISITION LLC ) ADMINISTRATIVE CONSENT
d/b/a OLD TOWN FUEL & FIBER ) AGREEMENT
PENOBSCOT COUNTY ) (38 M.R.S.A. § 347-A)
OLD TOWN, MAINE )
EIS 2010-022-A )

This Agreement by and among Red Shield Acquisition LLC d/b/a Old Town Fuel & Fiber ("Red Shield"), the Maine Department of Environmental Protection ("Department"), and the Maine Office of the Attorney General is entered into pursuant to the laws concerning the Department's Organization and Powers, 38 M.R.S.A. § 347-A(1)(A)(1).

The parties agree as follows:

- 1. Red Shield is a foreign limited liability company which is organized and exists under the laws of the State of Delaware and is authorized to do business in Maine. Red Shield is licensed to operate a pulp manufacturing facility and a biomass fired electric power generating facility under the standard and specific conditions of Department issued Air Emission License #1782 and subsequent amendments, and Title V Air Emissions License A 180-70-A-I. Red Shield acquired the facility on November 3, 2008 and submitted a license transfer application to the Department on November 17, 2008. Pursuant to the Department's Rules Concerning the Processing of Applications and other Administrative Matters, 06-096 CMR 2(21)(C)(1) (effective April 1, 2003) and the Department's Major and Minor Source Air Emission Regulations, 06-096 CMR 115(6)(A) (last amended August 4, 2008), Red Shield became jointly and severally liable for violations of the then existing licensing orders on the date of the application. The licenses existing at the time of the transfer application were transferred to Red Shield on January 14, 2009 and Red Shield subsequently became subject to Title V Air Emission License A-180-70-A-I upon its issuance on December 2, 2009.
2. The violations described herein took place at Red Shield's wood fired electrical generating and pulp manufacturing facilities located in Old Town, Maine identified in paragraph one (1).
3. During times relevant to this Agreement, Red Shield was subject to provisions of Maine's Protection and Improvement of Air laws ("Air Act"), 38 M.R.S.A. § 581-610-C, the Department's rules for Source Surveillance, 06-096 CMR 117 (effective May 9, 1994), Total Reduced Sulfur Control from Kraft Pulp Mills, 06-096 CMR 124 (last amended April 26, 2004), Air Emission License #1782 which became effective on June 11, 1980 and subsequent amendments, and Title V Air Emission License A-180-70-A-I which became effective on December 2, 2009.

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4. During times relevant to this Agreement, Red Shield was subject to Air Emission License A-180-71-AX-A replacement condition (1)(I), and subsequent to December 2, 2009 Air Emission License A-180-70-A-I condition (15)(I) which state in relevant part:

A-180-71-AX-A replacement condition (1)(I) (effective 1/13/2009):

(1) Biomass Boiler and Turbine

I. Opacity Limit/Cold Startups

Visible emissions from the biomass boiler shall not exceed 20% opacity on a 6 (six)-minute average except for one 6-minute period per hour of not more than 27% opacity. This opacity standard shall apply at all times, except during periods of cold startups as defined below. [40 CFR Part 60, Subpart Db]

A-180-70-A-I (15)(I) (effective 12/2/2009):

(15) Biomass Boiler and Turbine

I. Opacity Limit/Cold Startups

Visible emissions from the biomass boiler shall not exceed 20% opacity on a 6 (six)-minute average except for one 6-minute period per hour of not more than 27% opacity. This opacity standard shall apply at all times, except during periods of cold startups as defined below. [40 CFR Part 60, Subpart Db]

5. Excess Emission and Quarterly reports submitted by Red Shield to the Department for the fourth quarter of 2008 through the third quarter of 2010 describe the following incidents of excess opacity (6 minute block averages) from the Biomass Boiler in violation of the respective applicable requirements stated in paragraph four (4) above:

<u>Year</u>	<u>6 Minute Block Averages</u>
2009	25
1Q 2010	11

6. During times relevant to this Agreement, Red Shield was subject to Air Emission License A-180-71-M-A new condition (8) which states in relevant part:

A-180-71-M-A new condition (8) (effective 12/14/1994):

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(8) Opacity from the boilers' stack is limited to 20% (6-minute average) except for one 6-minute period per hour of not more than 27% opacity.

7. Excess Emission and Quarterly reports submitted by Red Shield to the Department for the fourth quarter of 2008 through the third quarter of 2010 describe the following incidents of excess opacity (6 minute block averages) from Boiler #5 in violation of the requirement stated in paragraph six (6) above:

<u>Year</u>	<u>6 Minute Block Averages</u>
2009	16

8. During times relevant to this Agreement, Red Shield was subject to Air Emission License A-180-71-T-M replacement condition (9) and 06-096 CMR 117(5)(A) & (B) which state in relevant part:

A-180-71-T-M (replacement condition 9) (effective 2/24/1997):

(9) James River shall install, operate, and maintain NO<sub>x</sub> (Specification 2) monitors on each boiler and a Specification 1 opacity monitor on the common stack. The monitors shall be installed, operated, and maintained in accordance with 40 CFR Part 60, Appendix B.

06-096 CMR 117(5)(A) & (B):

5. Data Recovery Requirements. Emission monitoring devices must record accurate and reliable data during all source-operating time except for periods when emission monitoring devices are subject to established quality assurance and quality control procedures or to unavoidable malfunction.

A. The department may not initiate enforcement action pursuant to 38 MRSA, section 349 against any person for failure to operate a continuous emission monitoring system for gaseous emissions as long as the system is recording accurate and reliable data at least 90% of the source-operating time in each quarter of the calendar year. If the continuous emission monitoring system for gaseous emissions is recording accurate and reliable data less than 90% of source-operating time within any quarter of the calendar year, the department may initiate enforcement action and may include in that enforcement action any period of time that the continuous emission monitoring system was not recording accurate and reliable data during that quarter unless the licensee can demonstrate to the satisfaction of the department that the failure of the system to record accurate and reliable data was due to the performance of established quality assurance and the quality control procedures or unavoidable malfunctions.

B. The department may not initiate enforcement action pursuant to 38 MRSA Section 349 against any person for failure to operate a continuous opacity monitoring system as long as the system is recording accurate and reliable data at least 95% of the source-operating time in each quarter of the calendar year, excluding time periods when the licensee is performing quality assurance and quality control procedures on the system that are required by the department. If the continuous opacity monitoring system is recording accurate and reliable data less than 95% of the source-operating time within any quarter of the calendar year, the department may initiate enforcement action for any period of time that the continuous opacity monitoring system was not recording accurate and reliable data during that quarter unless the licensee can demonstrate to the satisfaction of the Commissioner that the failure of the system to record accurate and reliable data was due to the performance of established quality assurance and quality control procedures or unavoidable malfunctions.

9. Excess Emission and Quarterly reports submitted by Red Shield to the Department for the fourth quarter of 2008 through the third quarter of 2010 document that Red Shield had excess downtime for the Boiler #5 NOx Continuous Emissions Monitor (“CEM”) in violation of the respective applicable requirement stated in paragraph eight (8) above:

<u>Year</u>	<u>% Downtime</u>
4Q 2009	11.9%

10. Excess Emission and Quarterly reports submitted by Red Shield to the Department for the fourth quarter of 2008 through the third quarter of 2010 document that Red Shield had excess downtime for the #5 Boiler Continuous Opacity Monitor (“COM”) in violation of the respective applicable requirement stated in paragraph eight (8) above:

<u>Year</u>	<u>% Downtime</u>
4Q 2009	8.7%

11. During times relevant to this Agreement, Red Shield was subject to Air Emission License A-180-70-K-A conditions (21)(A)(1)(c) & (3)(c) and (21)(B)(4)(a) & (d), A-180-71-T-M new condition (1), A-180-71-AV-M replacement condition (11)(H), A-180-71-AP-A replacement condition (1)(K)(2), A-180-71-AX-A replacement condition (1)(K)(2), and 06-096 CMR 117(4)(B)(1) & (5), and 06-096 CMR 124(4)(D) which state in relevant part:

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A-180-71-K-A (21)(A)(1)(c) & (3)(c) (effective 10/7/1992)<sup>1</sup>:

(21) For Compliance Assurance, James River shall comply with the following:

A. The Compliance Assurance Program shall apply to the following equipment:

1. Recovery Boiler #4

c. Emission Monitors - Opacity, TRS, SO<sub>2</sub>, CO, and NO<sub>x</sub>

3. Lime Kiln

c. Emission Monitors - TRS, O<sub>2</sub>

A-180-71-K-A (21)(B)(4)(a) & (d) (effective 10/7/1992):

B. James River shall comply with the following Compliance Assurance Plan:

4. Continuous Emission Monitoring

a. James River shall operate the emission monitors listed in (21)A. above at all times the source being monitored is operating, except for periods of QA/QC and maintenance activities as provided in James River's Quality Assurance Plan for its CEMs/COMs and other permissible downtime as determined by the Department.

d. All CEMs shall meet the sampling and performance criteria of 40 CFR Section 60.13, the criteria specified in 40 CFR, Part 51 Appendix P, and shall be operated in accordance with 40 CFR, Part 60 Appendix F.

A-180-71-T-M new condition (1) (effective 2/21/1997):

(1) James River shall follow all CEM operating and reporting requirements as stated in Chapter 117 of the Department's regulations and any applicable Maine statute.

<sup>1</sup> Subsequent Air Emission License A-180-71-T-M contains an apparent typographical error. Air Emission License A-180-71-T-M states that condition 21(A) of Air Emission License A-180-71-K-A "shall be replace" with the provisions of condition 21(A) in Air Emission License A-180-71-T-M. It is apparent from the context that the provisions of Air Emission License A-180-71-T-M concerning condition 21(A) are intended to add text to condition 21(A) of Air Emission License A-180-71-K-A not replace the text of condition 21(A) of Air Emission License A-180-71-K-A. The provision relates to the addition of emission and opacity monitors for Boiler #5 and Boiler #6 to the list of required monitoring equipment for the facility's other emission sources in Air Emission License A-180-71-K-A.

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A-180-71-AV-M replacement condition (11)(H) (effective 6/25/2008):

(11) Recovery Boiler

H. Red Shield shall operate and maintain SO<sub>2</sub> (ppm), NO<sub>x</sub> (ppm) and O<sub>2</sub> (ppm), CO (ppm), and TRS (ppm) CEMs and a continuous opacity monitor on the Recovery Boiler in accordance with 06-096 CMR 117 and 40 CFR, Part 63, Subpart MM, § 63.864(d). [06-096 CMR 117] SO<sub>2</sub> and CO - **Enforceable by State-only**

A-180-71-AP-A replacement condition (1)(K)(2) (effective 11/3/2006):

(1) Biomass Boiler and Turbine

K. Emission Limit Compliance Demonstration

2. Compliance with the NO<sub>x</sub> lb/MMBtu emission limit shall be on a 24-hour block average basis and demonstrated by means of a NO<sub>x</sub> CEMs operated in accordance with the applicable requirements in Chapter 117 and 40 CFR Part 60. The NO<sub>x</sub> lb/hr limit shall be demonstrated in accordance with an approved 40 CFR Part 60 Appendix A method(s) one time in the first year of operation and upon request thereafter.

A-180-71-AX-A replacement condition (1)(K)(2) (effective 1/13/2009):

(1) Biomass Boiler and Turbine

K. Emission Limit Compliance Demonstration

2. Compliance with the NO<sub>x</sub> lb/MMBtu emission limit shall be on a 24-hour block average basis and demonstrated by means of a NO<sub>x</sub> CEMs operated in accordance with the applicable requirements in 06-096 CMR 117 and 40 CFR Part 60. The NO<sub>x</sub> lb/hr limit shall be demonstrated in accordance with an approved 40 CFR Part 60 Appendix A method(s) one time in the first year of operation and upon request thereafter.

06-096 CMR 117(4)(B)(1) & (5):

(4). Quality Assurance/Quality Control Testing Requirements.

B. A CEMS shall be subject to the following audit requirements:

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- (1) For a CEMS monitoring gaseous emissions of sulfur dioxide, nitrogen oxides, carbon monoxide, oxygen, or carbon dioxide, the quality assurance requirements and procedures described in 40 CFR Part 60, Appendix F, shall apply. All requirements specified in Procedure 1 of Appendix F shall be met with the following clarification:
- (5) The required quarterly audits may be done anytime during each calendar quarter, but successive quarterly audits shall occur no closer than sixty (60) days apart.

06-096 CMR 124(4)(D):

4. Monitoring of Emissions and Operations. Any owner or operator subject to this Chapter must install, calibrate, maintain, and operate monitors, and perform stack tests, in accordance with the following requirements:
- D. All continuous emission monitoring systems installed and operated pursuant to this section to monitor the concentration of TRS emissions and the percent oxygen by volume shall meet the sampling and performance criteria of 40 CFR Section 60.13 and the Performance Specifications 5 and 3, respectively, of 40 CFR Part 60, Appendix B and Chapter 117 of the Department Regulations; and<sup>2</sup>
12. Excess Emission and Quarterly reports submitted by Red Shield to the Department for the fourth quarter of 2008 through the third quarter of 2010 document that Red Shield did not perform the Cylinder Gas Audit (“CGA”) on the NO<sub>x</sub> CEM on the Biomass Boiler, the NO<sub>x</sub> and TRS CEMs on the #4 Recovery Boiler, and the TRS CEM on the Lime Kiln in the first Quarter of 2009 in violation of the respective applicable requirements stated in paragraph eleven (11) above. Red Shield stated that the NO<sub>x</sub> and TRS EPA protocol gases were not onsite in time to do CGA's for the first quarter and the CGA's were completed in the second quarter of 2009.
13. During times relevant to this agreement, and as described in the findings of fact in Air Emission License A-180-71-AU-M, the Red Shield facility utilized a high volume, low concentration (“HVLC”) collection and treatment system for the brown stock washing system in order to comply with the Environmental Protection Agency’s (“EPA”) May 25, 2007 Administrative Order, the regulatory standards of EPA’s *National Emissions Standards for Hazardous Air Pollutants From the Pulp and Paper Industry – Standards for the Pulping System*, 40 CFR 63.443, and 06-096 CMR 124.
14. During times relevant to this Agreement, Red Shield was subject to 06-096 CMR 124(3)(E) which states in relevant part:

<sup>2</sup> 40 CFR 60.13 incorporates 40 CFR Part 60, Appendix F by reference.

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06-096 CMR 124(3)(E):

3. Standards

E. By April 17, 2007, each HVLC collection system subject to this Chapter shall maintain a 96% collection and control uptime based on quarterly brownstock washer system operating time on a total mass weighted basis.

15. Excess emission and quarterly reports submitted by Red Shield to the Department from the fourth quarter of 2008 to the third quarter of 2010 document that Red Shield did not maintain an emissions collection and control up time of greater than 96% in the third quarter of 2009, Red Shield reported 93.6% uptime for this period, in violation of the requirement stated in paragraph fourteen (14) above.

16. During times relevant to this Agreement, Red Shield was subject to 06-096 CMR 124(2)(I) & (3)(B) and Air Emission License Amendment A-180-71-AJ-A replacement condition (12) which state in relevant part;

06-096 CMR 124(2)(I) & (3)(B):

2. Definitions

I. Low volume, high concentration or LVHC collection system. "Low volume, high concentration or LVHC collection system" means a system which collects and conveys TRS gases to a control device from equipment that could include, but is not limited to, the digester system, turpentine recovery system, evaporator systems, and any miscellaneous sources requiring TRS to be controlled.

3. Standards

B. The LVHC collection system shall have a primary control strategy and a backup control strategy. Both strategies shall meet the requirements of this Chapter.

A-180-71-AJ-A replacement condition (12) (effective 5/6/2005):

(12) Fort James shall incinerate the non-condensable (NCGs) in Boiler #5, the Biomass Boiler, or the lime kiln. The lime kiln shall be utilized as the primary incineration source with either Boiler #5 or the Biomass Boiler as back-up. Primary shall be defined as greater than 80% of the total incineration time on an annual basis. If a catastrophic kiln failure occurs, Fort James shall incinerate the NCGs in Boiler #5 or the Biomass Boiler.



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21. Excess Emission and Quarterly reports submitted by Red Shield to the Department for the fourth quarter of 2008 through the third quarter of 2010 describe the following incidents of TRS excess emissions in violation of the requirement stated in paragraph twenty (20) above:

<u>Year</u>	<u>Violations</u>
2Q 2010	1

22. Department Staff notified Red Shield by a Notice of Violation (NOV) sent on February 10, 2010 of the air emission violations described in paragraphs four (4) through seventeen (17).
23. For the purposes of this Agreement, Red Shield agrees that it received proper notice of all violations identified herein pursuant to 38 M.R.S.A. § 347-A(1)(B).
24. Pursuant to 38 M.R.S.A §§ 341-D(6)(C) and § 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection (“Board”), which is part of the Department.
25. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.
26. To resolve the violations identified in this Agreement, Red Shield agrees to pay to the *Treasurer, State of Maine*, immediately upon signature of this Agreement a civil monetary penalty of sixty thousand, seven hundred and nine dollars (\$60,709.00)
27. The Department and the Office of the Attorney General grant a release of their causes of action against Red Shield for the specific violations listed in paragraphs four (4) through twenty-one (21) of this Agreement on the express condition that the civil monetary penalty listed in paragraph twenty-six (26) of this Agreement is paid. This release shall not become effective until all requirements of this Agreement are satisfied.
28. Non-compliance with this Agreement voids the release set forth in paragraph twenty-seven (27) of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. § 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
29. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all local, state and federal laws, including but not limited to licensing requirements.

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30. The provisions of this Agreement shall apply to, and be binding on, the parties, their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

IN WITNESS HEREOF the parties hereto have executed this Agreement of eleven (11) pages.

RED SHIELD ACQUISITION LLC

BY:  Nov 30/2010  
Title PRESIDENT DATE

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_  
Susan M. Lessard, Chair DATE

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: \_\_\_\_\_  
Gerald D. Reid, Assistant Attorney General DATE