



STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

Jeremiah W. (Jay) Nixon, Governor • Sara Parker Pauley, Director

www.dnr.mo.gov

NOV 14 2011

Mr. Karl Brooks
Regional Administrator
U.S. EPA, Region VII
901 North Fifth Street
Kansas City, KS 66101

Dear Mr. Brooks:

The Missouri Air Conservation Commission has recently revised or promulgated the following air quality plan contained in the Missouri State Implementation Plan (SIP). The following is enclosed for your review and approval into the SIP:

Revision to the Missouri State Implementation Plan for the Herculaneum Lead Nonattainment Area - Modification to the 2007 Consent Judgment

This revision to the SIP for the Herculaneum Lead Nonattainment Area is to modify the 2007 Consent Judgment. It clarifies that a prohibition to the construction of new lead emission processes on certain parts of the Doe Run Company's Herculaneum property inside the property fenceline applies only to current lead smelting or pyrometallurgical technology sintering and blast furnace operations and not the new, substantially less-emitting, hydrometallurgical technology. This new hydrometallurgical technology was not considered during the drafting of that provision in the 2007 Consent Judgment.

The commission adopted the enclosed plan actions on June 30, 2011 after considering comments received at public hearing. The commission has full legal authority to develop the SIP pursuant to Section 643.050 of the Missouri Air Conservation Law. The state followed all applicable administrative procedures in proposing and adopting the plan action(s). Enclosed are the required SIP submittal elements for determination of plan completeness per 40 CFR Part 51, Appendix V.

In order to comply with Attachment A of the "Regional Consistency for the Administrative Requirements of State Implementation Plan Submittals and the Use of 'Letter Notices'" memo dated April 6, 2011, a searchable pdf version of this document will be emailed to the EPA Regional Office and will be posted on our website at <http://dnr.mo.gov/env/apcp/stateplans.htm>.

Mr. Karl Brooks
Page Two

All parties to the 2007 Consent Judgment have signed the amendment to this agreement as outlined in this plan action. In addition, the amendment was signed by the Jefferson County Circuit Court Judge on October 19, 2011 and entered into the Court record on October 21, 2011. A copy of the signed Consent Judgment amendment is also attached.

The Missouri Department of Natural Resources requests that the Environmental Protection Agency amend the SIP to incorporate this plan.

Thank you for your attention to this matter. If you have any questions regarding this submittal, please contact Wendy Vit, Missouri Department of Natural Resources' Air Pollution Control Program at P.O. Box 176, Jefferson City, MO 65102 or by phone at (573) 751-4817.

Sincerely,

AIR POLLUTION CONTROL PROGRAM

Original signed by Kyra L. Moore

Kyra L. Moore
Director

KLM:jwc

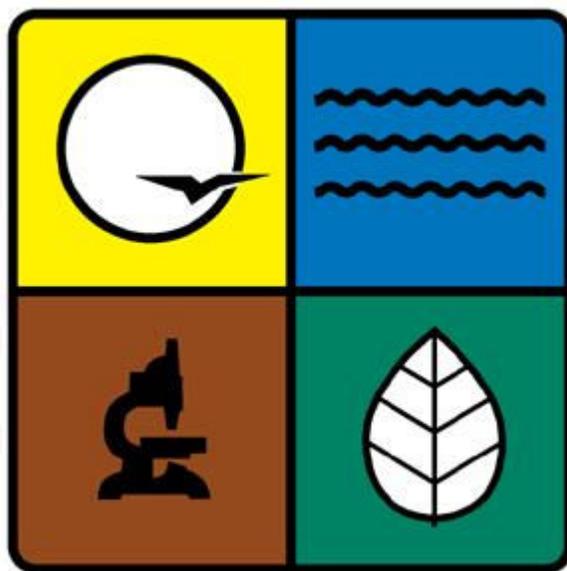
Enclosures: Copy of Plan
Copy of commission signature page certifying Missouri Air Conservation Commission adoption
Copy of signed Second Amendment to the 2007 Consent Judgment
Copies of public hearing newspaper notices
Copy of public hearing transcript introductory statement
Copy of public comments and responses

c: Missouri Air Conservation Commission

**Revision to the
Missouri State Implementation Plan
for the
Herculaneum Lead Nonattainment Area**

**Modification to the
2007 Consent Judgment**

Prepared for the
Missouri Air Conservation Commission
Adoption: June 30, 2011



**Missouri Department of Natural Resources
Division of Environmental Quality
Air Pollution Control Program
1659 E. Elm Street
Jefferson City, MO 65102
(573)751-4817**

Missouri State Implementation Plan (SIP) Revision for the Herculaneum Lead Nonattainment Area - 2007 Consent Judgment Modification - Doe Run Fenceline Provisions

The purpose of this revision to the Missouri State Implementation Plan (SIP) for the Herculaneum Lead Nonattainment Area is to modify the 2007 Consent Judgment to clarify that a prohibition to the construction of new lead emission processes on certain parts of the Doe Run Company's Herculaneum property inside the property fenceline applies to current lead smelting or pyrometallurgical technology sintering and blast furnace operations and not the new, substantially less-emitting, hydrometallurgical technology that was not anticipated during the development of the 2007 SIP revision.

On April 27, 2007, the Missouri Air Conservation Commission (MACC) adopted a SIP revision for the Herculaneum Lead Nonattainment Area to demonstrate compliance with the 1978 National Ambient Air Quality Standard (NAAQS) for Lead. Compliance with this standard is based on ambient monitoring data with concentrations less than a quarterly average of 1.5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). At the core of this 2007 Lead SIP revision is the 2007 Consent Judgment, an agreement between the Doe Run Company and the State of Missouri. This Consent Judgment details numerous lead emission control technology projects, work practices, and strategies used to demonstrate attainment of the 1978 Lead NAAQS. Since the completion of construction of these control technology projects and the implementation of the new control techniques by Doe Run in April 2008, air quality monitoring in Herculaneum has continually demonstrated compliance with the 1978 standard with more than 11 quarters of compliance. The U.S. Environmental Protection Agency (EPA) proposed conditional approval of the 2007 SIP revision on October 8, 2008. In 2009, a supplement to this revision was developed to satisfy the outstanding conditions in the 2007 SIP revision by establishing ventilation rates that ensure the appropriate levels of lead particle capture, control and containment in the process buildings. This plan supplement was adopted by the MACC on July 29, 2009. On August 27, 2010, the EPA proposed final approval of both of these Lead SIP revisions [75 FR 52701].

For more information on these and other SIP revisions, please visit the Missouri Department of Natural Resources Air Pollution Control Program's State Plan website:

<http://www.dnr.mo.gov/env/apcp/stateplans.htm>

On October 15, 2008, EPA announced a strengthened Lead NAAQS. This new standard establishes a limit of $0.15 \mu\text{g}/\text{m}^3$ based on a three-month average. Missouri is currently developing a SIP revision to demonstrate attainment with this standard. In light of this new Lead standard and a recently promulgated new Sulfur Dioxide (SO₂) NAAQS, the Doe Run Company entered into a Consent Decree with the State of Missouri and the EPA in October 2010. As part of the terms of this Consent Decree, Doe Run has agreed to cease smelting operations at its Herculaneum facility. This is described in Paragraph V.A.14. of the Consent Decree:

Rather than comply with required SO₂ best available control technology ("BACT") and lead lowest achievable emissions reduction ("LAER") emission limits through the installation of emission control technologies, and because Doe Run is pursuing alternative technology for processing lead concentrate, Doe Run has, for independent business reasons, elected to permanently cease smelting operations of the Herculaneum Lead Smelter in accordance with the schedule set forth in this Paragraph.

The sinter plant will shut down by December 31, 2013 while the blast furnace operations will cease by April 30, 2014. Doe Run has subsequently announced that it plans to implement this new alternative lead ore processing technology on Doe Run property next to the current Herculanum Lead Smelter and inside the Doe Run fenceline. This “new lead metal technology” is a proprietary hydrometallurgical, not a smelting or pyrometallurgical process.

In the 2007 Consent Judgment, paragraph 2.B.1. allows Doe Run to extend the fenceline to preclude public access. The provision did not allow Doe Run to expand their lead processes into the area between the old and any new fenceline. The intent of this provision was to keep the footprint of the current lead smelting processes while increasing the public health buffer zone as the fenceline expanded. At the time of the writing of the Consent Judgment, no one envisioned the development of this new extremely low lead-emitting process at Herculanum or that the existing lead smelter would close as proscribed in the Consent Decree. In light of the new much more protective NAAQS, the Consent Decree and the development of this new technology, it is appropriate to clarify this provision. In this SIP revision we are proposing to amend a sentence within paragraph 2.B.1. as follows:

*Doe Run shall not relocate any existing [~~processes~~] **pyrometallurgical lead smelting sintering or blast furnace unit operations**, or construct new **pyrometallurgical lead smelting sintering or blast furnace** emission sources in the area between the existing fence line and the new fence line.*

The entire text of the 2007 Consent Judgment may be viewed at:
<http://www.dnr.mo.gov/env/apcp/docs/consentjdgmnt.pdf>

This minor modification will allow Doe Run to proceed with the development and construction (once appropriately permitted) of a “new lead metal technology,” or hydrometallurgical, lead ore concentrate processing plant on their current fenced-in grounds within the city limits of Herculanum but will not affect the enforceability of any other requirements of the 2007 Consent Judgment or any previous SIP revisions.

Attached below is the proposed *Second Amendment to Consent Judgment*. The Missouri Department of Natural Resources, The Missouri Attorney General’s Office, and the Doe Run Company all coordinated on the development of the proposed agreement modification. If this proposed SIP revision is adopted by the MACC, the parties have agreed to sign this amendment to the 2007 Consent Judgment thereby modifying it accordingly as provided for in the original document.

Pursuant to 643.055 RSMo, the Missouri Air Conservation Commission has determined that this action is needed to have a U.S. Environmental Protection Agency approved State Implementation Plan.

Doe Run Herculaneum, Modification to Consent Judgement is hereby adopted by the Missouri Air Conservation Commission this 30th day of June, 2011.

Original signed by commissioners

Mark Garnett	, Chairman
David C. Zimmerman	, Vice Chairman
Gary J Pendergrass	
Jack C Baker	, Member
Ronald Boyer	
	, Member
	, Member

_____, Member

_____, Member

FILED
OCT 11 2011
MISSOURI
COURT CLERK

IN THE
CIRCUIT COURT OF JEFFERSON COUNTY
STATE OF MISSOURI

STATE OF MISSOURI ex rel.)
DEPARTMENT OF NATURAL)
RESOURCES and THE MISSOURI)
AIR CONSERVATION COMMISSION,)
)
Plaintiff,)
)
)
THE DOE RUN RESOURCES)
CORPORATION,)
)
Defendant.)

Case No. 07JECC00552

MEMORANDUM

Attached hereto is the Second Amendment to Consent Judgment in the above-captioned case. The parties mutually agreed to this Second Amendment to Consent Judgment and hereby request the Court enter the Second Amendment to Consent Judgment.

Submitted by:

Stacy Stotts,
Stinson Morrison Hecker

Attorney for Defendant,
The Doe Run Resources Corporation

Kara Valentine,
Office of the Missouri Attorney General

Attorney for Plaintiff,
State of Missouri

So ordered.



Circuit Judge

10-19-11

Date



1. Fence line to Preclude Public Access. A map showing the existing fence line and a proposed new fence line is provided in the Work Practices Manual. Doe Run shall maintain the existing fence around its facility so that it is sufficient to preclude general public access, until such time as a new fence line outside the existing fence line is fully installed. If Doe Run moves the fence to the proposed fence line or another location outside the existing fence line, it must install and maintain the new fence so that it is sufficient to preclude general public access. Doe Run shall notify MDNR of its intent to move the fence line to the proposed fence line or another location outside the existing fence line at least 90 days prior to commencement of construction. Doe Run shall not relocate any existing pyrometallurgical lead smelting sintering or blast furnace unit operations, or construct new pyrometallurgical lead smelting sintering or blast furnace emission sources in the area between the existing fence line and the new fence line.

WE HEREBY CONSENT to the entry of this Judgment:

DATE: 6/30/11

MISSOURI AIR CONSERVATION
COMMISSION

By: Mark S. Garnett

Mark S. Garnett, Chairman

DATE: 3/11/4

**MISSOURI DEPARTMENT OF NATURAL
RESOURCES**

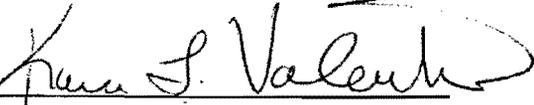
By: Leanne Tippet Mosby

Leanne Tippet Mosby, Director

Division of Environmental Quality

DATE: 9/19/11

**CHRIS KOSTER, MISSOURI ATTORNEY
GENERAL**

By: 

Print Name: Kara L. Valentini

Title: Assistant Attorney General

DATE: 5 Jul 11

**THE DOE RUN RESOURCES
CORPORATION**

By: Louis J. Maruchean

Print Name: LOUIS J. MARUCHEAN

Title VICE PRESIDENT LAW

IT IS SO ORDERED.



CIRCUIT JUDGE

DATE: 10-19-11

I certify and attest that the above is a true copy of the original record of the Court in case number 07JE-CLOOSS2 as it appears on file in my office.

Issued 10-21-11

Howard Wagner, Circuit Clerk
Jefferson County Circuit Court

By Amanda Schuch
Deputy Clerk



MISSOURI AIR CONSERVATION
COMMISSION

WILL HOLD PUBLIC HEARING

JEFFERSON CITY, MO -- The Missouri Air Conservation Commission will hold a public hearing on the 2010 1-Hour Sulfur Dioxide Boundary Designation, Maintenance Plan for the Annual Fine Particulate Matter (PM2.5) National Ambient Air Quality Standard (NAAQS), and Doe Run Herculaneum Facility-Modification to Consent Judgement on Thursday, April 28, 2011. The Public Hearing will begin at 9 a.m. at the Holiday Inn Hotel and Suites, Rainier Room, 2720 North Glenstone, Springfield, Missouri. The commission will hear testimony related to the following item(s).

* 2010 1-Hour Sulfur Dioxide Boundary Designation Recommendation

In June 2010, the U.S. Environmental Protection Agency (EPA) issued a revision to the National Ambient Air Quality Standard for sulfur dioxide (SO₂) of 75 parts per billion measured over one hour. Release of this standard started a time clock with a deadline of June 2011 for the governor of the State of Missouri to submit a recommendation to EPA as to which areas of the state should be designated as nonattainment for the new SO₂ standard. Portions of Greene, Jackson, and Jefferson counties are recommended as nonattainment for this standard.

* Redesignation Demonstration and Maintenance Plan for the Missouri Portion of the St. Louis Area for the 1997 Annual Fine Particulate Matter (PM2.5) National Ambient Air Quality Standard (NAAQS)

The Missouri counties of Franklin, Jefferson, St. Charles, and St. Louis along with the City of St. Louis are part of a nonattainment area for the 1997 annual PM2.5 NAAQS. Monitors located in this area have recorded three years of complete, quality assured ambient air quality monitoring data for 2007-2009, demonstrating attainment with the 1997 annual PM2.5 NAAQS. Now that the area has attained the standard, a maintenance plan for the St. Louis area is being submitted to EPA as part of a request to redesignate the affected area to attainment for this NAAQS.

* Missouri State Implementation Plan -- The Doe Run Company Herculaneum Facility -- Modification to Consent Judgment

As part of the Consent Judgment entered into by Missouri Department of Natural Resources and The Doe Run Company (Doe Run), the provision entitled "Fence line to Preclude Public Access" includes a statement that Doe Run will not construct any new lead emission sources between the existing fence line and any new fence line. The purpose of this revision is to modify this statement to allow for the construction of a new lead technological process, but continue to restrict the construction of traditional pyrometallurgical lead processes within this area.

Documents for the above item(s) will be available for review at the Missouri Department of Natural Resources, Air Pollution Control Program, 1659 Elm Street, Jefferson City, (573) 751-4817 and in the Public Notices section of the program web site www.dnr.mo.gov/env/apcp/index.html. This information will be available at least 30 days prior to the public hearing date.

Persons with disabilities requiring special services or accommodations to attend the meeting can make arrangements by calling the Department directly at (573) 526-4679, the Department's toll free number at (800) 334-6946, or by writing two weeks in advance of the meeting to: Missouri Department of Natural Resources, Air Conservation Commission Secretary, P.O. Box 176, Jefferson City, MO 65102. Hearing impaired persons may contact the program through Relay Missouri, (800) 735-2966.

The commission holds public hearings under the provisions of chapter 643, RSMo. Citizens wishing to speak at the public hearing should notify the secretary to the Missouri Air Conservation Commission, Missouri Department of Natural Resources, Air Pollution Control Program, P.O. Box 176, Jefferson City, Missouri 65102-0176, or telephone (573) 526-4679. The Department requests persons intending to give verbal presentations also provide a written copy of their testimony to the commission secretary at the time of the public hearing. The Department also will accept written or email comments for the record until 5 p.m. on May 5, 2011; please send written comments to Chief, Air Quality Planning Section, Air Pollution Control Program, P.O. Box 176, Jefferson City, MO 65102-0176. Email comments regarding rule actions shall be sent to apcprulespn@dnr.mo.gov and email comments regarding plan actions shall be sent to apcpsppn@dnr.mo.gov. All written and email comments and public hearing testimony will be equally considered.

Public hearing items may be adopted by the Missouri Air Conservation Commission as provided for under authority of 643.050, RSMo. For more information or a complete meeting agenda, including items being presented for adoption, contact the Missouri Department of Natural Resources' Air Pollution Control Program at (573) 751-4817.
N.T. March 29, 2011

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STATE OF MISSOURI DEPARTMENT OF NATURAL RESOURCES
MISSOURI AIR CONSERVATION COMMISSION
PUBLIC HEARING

TRANSCRIPT OF PROCEEDINGS

April 28, 2011

Springfield, MO

REPORTED BY:

ERIKA SCHAFFER, CCR
MIDWEST LITIGATION SERVICES
1911 SOUTH NATIONAL, SUITE 402
SPRINGFIELD, MO 65804
TEL: 417-877-9700
FAX: 417-877-9704

1 Public Hearing start time: 9:29 a.m.

2 MR. GARNETT: The hearing will come to order.

3 Let the record show the following commissioners are
4 present. Mark Garnett, Gary Pendergrass, Ron Boyer,
5 Jack Baker and David Zimmerman. The Air Conservation
6 Commission of the State of Missouri has called this
7 public hearing, pursuant to Section 643.070, Revised
8 Statutes of Missouri, EPA promulgated rule 40 CFR
9 51.102, for the purpose of hearing testimony relating
10 to: 2010 One-Hour Sulfur Dioxide Boundary Designation.

11 Missouri State Implementation Plan Modification, to
12 Consent Judgment for the Doe Run Herculaneum Facility.

13 And, Missouri State Implementation Plan, Redesignation
14 Demonstration and Maintenance Plan for the Missouri
15 Portion of the St. Louis Nonattainment Area for the 1997
16 Fine Particular Matter National Ambient Air Quality
17 Standard. The hearing record will close at 5:00 p.m.
18 May 5th, 2011. Anyone who has not been scheduled to
19 appear, but wishes to be heard, should indicate that you
20 wish to speak on the sign in sheets available at the
21 door.

22 Section 643.100 of the Missouri Statutes provides
23 that all oral testimony would be given under oath.
24 Accordingly, when you're called to testify, please
25 present yourself to the court reporter first, to be

1 elected officials, EPA, local air agencies and
2 consultants. We also made presentations at the REGFORM
3 seminar in Columbia March 30th and at the Mid-America
4 Regional Councils Air Quality forum meeting in Kansas
5 City on April 12th.

6 In summary, we discussed the new sulfur dioxide
7 standard, the four Missouri monitors currently in
8 violation and the three corresponding areas proposed for
9 nonattainment status. We briefly discussed several
10 recent, or pending federal rules, offering sulfur
11 dioxide emission reductions and the timelines for the
12 process as we move forward towards the August 2017
13 attainment date for all areas.

14 This slide includes websites to access the
15 Executive Summary and the Technical Support Document for
16 the 2010 one-hour Sulfur Dioxide Boundary
17 Recommendation. Comments are accepted through May 5th,
18 2011. This concludes our testimony. Does the
19 Commission have any questions or comments?

20 MR. GARNETT: Bob, Vern, thanks. Thank you. Joe
21 Winkleman.

22 JOE WINKLEMAN,
23 of lawful age, having been produced and sworn, testified
24 as follows:

25 MR. WINKLEMAN: Chairman, Members of the

1 Commission, my name is Joe Winkleman. I'm employed as
2 an Environmental Engineer with the Air Pollution Control
3 Program located at 1659 East Elm Street, Jefferson City,
4 Missouri. I'm here today to present testimony for a
5 proposed revision to the 2007 State Implementation Plan,
6 or SIP, for the Herculaneum Lead Nonattainment Area.
7 The plan revision starts on page 115 of your briefing
8 document and includes the proposed Second Amendment to
9 the 2007 consent Judgment.

10 The purpose of this revision is to modify the
11 2007 Consent Judgment to clarify that a prohibition to
12 the construction of new lead emission processes on
13 certain parts of the Doe Run Company's Herculaneum
14 property, inside the property fence line, applies to
15 current lead smelting or pyrometallurgical technology,
16 sintering and blast furnace operations, and not the new,
17 substantially less-emitting, hydrometallurgical
18 technology that was not anticipated during the
19 development of the 2007 SIP revision.

20 In 2007, Missouri adopted a SIP revision for the
21 Herculaneum Lead Nonattainment Area to demonstrate
22 compliance with the 1978 National Ambient Air Quality
23 Standard, or NAAQS, for lead. At the core of this SIP
24 revision is the 2007 Consent Judgment, an enforceable
25 agreement between the Doe Run Company and the State of

**COMMENTS AND RESPONSES
AND
RECOMMENDATION FOR ADOPTION**

**ON PROPOSED REVISION TO
THE MISSOURI STATE IMPLEMENTATION PLAN
FOR THE
HERCULANEUM LEAD NONATTAINMENT AREA**

**—
MODIFICATION TO THE 2007 CONSENT JUDGMENT**

On April 28, 2011 the Missouri Air Conservation Commission held a public hearing concerning the proposed revision to the 2007 State Implementation Plan (SIP) for the Herculaneum Lead Nonattainment Area in regards to the Second Amendment to the 2007 Consent Judgment. As part of the Consent Judgment entered into by Missouri Department of Natural Resources and The Doe Run Company (Doe Run), the provision entitled "Fence line to Preclude Public Access" includes a statement that Doe Run will not construct any new lead emission sources between the existing fence line and any new fence line. The purpose of this revision is to modify this statement to allow for the construction of a new lead technological process, but continue to restrict the construction of traditional pyrometallurgical lead processes within this area. No written or verbal comments were received concerning this proposed revision during the public comment period.

The document has not been reprinted in the briefing document as no changes were made from the proposal. The entire document is available for review at the Missouri Department of Natural Resources', Air Pollution Control Program, 1659 East Elm Street, Jefferson City, Missouri, 65101, (573)751-4817. It is also available online at <http://dnr.mo.gov/env/apcp/stateplanrevisions.htm>

The Missouri Department of Natural Resources' Air Pollution Control Program recommends the commission adopt the plan action as proposed. If the commission adopts this plan action, it will be the department's intention to submit this plan to the U.S. Environmental Protection Agency for inclusion in the Missouri State Implementation Plan.

SUMMARY OF COMMENTS: No written or verbal comments were received concerning this proposed SIP revision.