

## ***Environmental Bill of Rights Application for a Review Decision Summary***

**EBRO File No.:**       **09EBR002.R**

**Issue:**   The Ministry of the Environment (ministry) has received an application under the *Environmental Bill of Rights, 1993* (EBR) for a review of Certificate of Approval (CofA) No. 8-2115-80-987 issued to Wilson Laboratories Inc. operating as Biedermann Packaging Inc. (Biedermann) to resolve concerns regarding adequacy of the CofA in protecting the environment and human health given the chemicals stored and packaged on site at 36 Head Street, City of Hamilton.

### **Applicants' Request**

The applicants have requested that the CofA be amended to add the nature of the activities taking place at the Biedermann facility as part of the description and to change the company name to reflect the current owners.

The applicants also request that the CofA be reviewed to ensure that the emission control equipment provides adequate human health and environmental protection given the more fulsome description of the activities on site. The applicants specifically request that Biedermann be required to monitor chemicals of concern at the exhaust stack in order to demonstrate that the emission controls are effective.

In addition to reviewing the CofA, the applicants also request that the ministry:

- Review the use of the circular silencer to determine whether it is providing adequate noise control; and
- Review the Operations and Maintenance Manual to determine whether there is a need for any updates and to review the practices for the removal and disposal of filters from the baghouse system.

The applicants supplied a list of chemicals known to be at the Biedermann facility as of July 26, 2007; the response to a previous application for review made under the EBR for the Biedermann facility and a copy of the CofA.

### **Biedermann Response to Issues Raised in Application**

Under section 66 of the EBR the CofA holder is given notice of the application through a letter. The CofA holder then has an opportunity to comment on the issues raised in the application. The names of the applicants are not included in any correspondence with the CofA holder.

On March 6, 2009 the ministry received a response from Biedermann from a section 66 letter. Biedermann responded to the issues as follows:

- Noise – Biedermann has responded to a noise complaint in the area stating that the noise levels from their facility are below the ability of their dosimeter to detect (below 50 dB) and that the nuisance noise/vibration may be from another facility in the area.
- Dust Collector – The results of the review done of the dust collection system from the issued CofA still apply to their current operations.

- Operation and Maintenance Manual – The Operations and Maintenance Manual is available to the ministry. The original logs were destroyed in the fire in 2007, but logs are available electronically from 1999 to 2006.
- Circular Silencer – The supplier for the circular silencer was on site on February 25, 2009 and indicated that the silencer is in good working order.
- Description in CofA – The description is consistent with other Certificates of Approval (CsofA). As a pesticide/fertilizer formulator, the materials on site may change daily.
- Name Change – The paperwork for the change of name was filed with the ministry in 1999 and 2004. Biedermann was informed that no change would result, but that it would be kept on file.

### **Ministry Review of Application**

The decision on the assessment of this application for a review has been delegated by the Minister of the Environment to the Assistant Deputy Minister (ADM) of Operations Division. The assessment of this application involved staff from the Hamilton District Office and the Environmental Assessment and Approvals Branch of the ministry. The assessment was based on the evidence provided in the application and information found in ministry files. The ADM of Operations Division considered the criteria listed in subsection 67(2) of the EBR in assessing this request for a review.

The ministry had previously reviewed an EBR application for review of a sewage works CofA for the Biedermann facility as mentioned by the applicants. This application raised similar concerns regarding the description of the facility and the name of the CofA holder.

In his decision dated June 20, 2008, the ADM of Operations Division initially concluded that, "the Biedermann CofA should be amended to correct the inaccurate description of the facility to better reflect its operations." However, it was further noted that the description of the facility did not and would not impact the technical review that was undertaken by the ministry when assessing the CofA application. This is also true for the CofA (Air) being considered during this review. The rationale provided by the applicants for their request to review the CofA (Air) is that the description of the facility was such that the ministry did not consider the full effects of the agricultural chemicals on site and that the CofA may not have adequate conditions.

As with the above-mentioned sewage works CofA, the description of the facility for the CofA (Air) being considered during this review did not impact the technical review undertaken to assess the CofA application.

When information on the change of name was forwarded to the ministry, the ministry decided not to amend the CofA, but sent an acknowledgement letter on March 12, 2004 to Biedermann acknowledging the name change.

### **Conclusion:**

The ministry has conducted a preliminary assessment of the matters related to this facility with respect to the EBR Application. The ADM of Operations Division concluded that a review of the CofA would, in this instance, be appropriate. Therefore, the ministry will:

- Conduct a technical review of the CofA;

- Make administrative amendments as the Director under section 9 of the *Environmental Protection Act* considers appropriate (e.g. changing the name of the CofA Holder, reviewing the facility description); and
- Conduct a review of the Operations and Maintenance Manual.