

**FILED**  
**01-22-2021**  
**John Barrett**  
**Clerk of Circuit Court**  
**2021CX000001**

STATE OF WISCONSIN    CIRCUIT COURT    MILWAUKEE COUNTY

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STATE OF WISCONSIN  
17 West Main Street  
Post Office Box 7857  
Madison, WI 53707-7857,

Plaintiff,

v.

Case No. 21-CX-\_\_\_\_\_  
Complex Forfeiture: 30109

ALTER TRADING CORPORATION  
700 Office Parkway  
St. Louis, MO 63141,

and

MILLER COMPRESSING COMPANY  
1640 W. Bruce Street  
Milwaukee, WI 53204,

Defendants.

THE AMOUNT CLAIMED IS  
GREATER THAN THE AMOUNT  
CLAIMED UNDER WIS. STAT.  
§ 799.01(1)(d).

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## CIVIL COMPLAINT

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The State of Wisconsin by its attorneys, Attorney General Joshua L. Kaul and Assistant Attorneys General Sarah C. Geers and Lorraine C. Stoltzfus, brings this complaint against Miller Compressing Company and Alter Trading Corporation pursuant to Wis. Stat. §§ 285.87(1) and 299.95 at

the request of the Wisconsin Department of Natural Resources (DNR), and alleges as follows:

1. Plaintiff State of Wisconsin is a sovereign state of the United States of America with its principal office at the State Capitol in Madison, Dane County, Wisconsin.

2. Defendant Miller Compressing Company (Miller) is a domestic corporation with its principal office located at 1640 West Bruce Street, Milwaukee, Wisconsin 53204-1103. Its registered agent is C. T. Corporation System located at 301 South Bedford Street, Suite 1, Madison, Wisconsin 53703.

3. Alter Trading Corporation (Alter) is a foreign corporation with its principal office located at 700 Office Parkway, St. Louis, Missouri 63141. Its registered agent is C. T. Corporation System located at 301 South Bedford Street, Suite 1, Madison, Wisconsin 53703.

4. Miller is a wholly-owned subsidiary of Alter.

5. The Defendants own and operate a scrap metal recycling facility located at 1640 West Bruce Street, Milwaukee, Wisconsin 53204-1103 (Miller facility).

6. Alter's employees supervise and control environmental compliance at the Miller facility.

7. Alter is an “operator” of the Miller facility as that term is defined in Wis. Admin. Code § NR 400.02(113) and used in Wis. Stat. § 285.01(33).

### GENERAL ALLEGATIONS

8. The Plaintiff has enacted in Wis. Stat. ch. 285 statutes governing sources of air contaminant emissions to prevent and reduce air pollution. DNR administers regulations and issues permits authorized by these statutes.

9. Wisconsin Stat. § 285.60(7) states that “[a] person who obtains [an air pollution control permit] under this section shall comply with all terms and conditions of the permit.”

10. On June 26, 2013, DNR issued operation permit number 241213720-P12 to Miller Compressing Company (the Permit).

11. The shredder (P21) operates with a series of pollution control devices: a cyclone (C31), a wet venturi scrubber (C32), a high-efficiency air filter (C33), cascade cleaning chamber, and mist eliminator.

12. The pollution control devices include a series of fans that direct emissions from the shredder through a series of pollution control devices.

13. One fan is mounted nearest the cyclone and draws emissions into the pollution control devices (Cyclone Fan).

14. On February 23, 2016, DNR Air Management Engineer Michael Griffin (Griffin) recorded visible emissions from the shredder at the Miller facility.

15. On February 23, 2016, there were visible emissions from the shredder with six-minute averages of 50 percent opacity.

16. On February 24, 2016, DNR sent a Letter of Noncompliance to notify the Defendants of the visible emission violation, to request information, and to request that the Defendants initiate corrective actions.

17. On December 16, 2016, the Defendants applied to DNR to renew the Permit for the Miller facility.

18. On March 7, 2017, the Cyclone Fan malfunctioned.

19. On March 8, 2017, the Cyclone Fan was isolated for repair.

20. On March 8, 2017, the replacement Cyclone Fan kept at the facility did not fit.

21. On March 8, 2017, the fan belts for the Cyclone Fan were cut.

22. From March 7 through March 9, 2017, the Cyclone Fan was not in operation.

23. On March 8, 2017, the Defendants operated the shredder without the Cyclone Fan for between 2.21 and 3.22 hours.

24. On March 9, 2017, the Defendants operated the shredder without the Cyclone Fan for between 5.83 and 7.56 hours.

25. On March 9, 2017, Griffin was driving near the Miller facility, noticed visible emissions at the Site, and stopped to investigate.

26. On March 9, 2017, there were visible emissions from the shredder with six-minute averages of 41.6 percent opacity.

27. On March 8 and 9, 2017, the Defendants did not note the Cyclone Fan malfunction on the daily inspection report.

28. Between March 7 and 10, 2017, the Defendants did not report the Cyclone Fan malfunction to DNR.

29. On March 14, 2017, DNR sent a Letter of Inquiry to the Defendants regarding the alleged Permit noncompliance that occurred on March 9, 2017.

30. On June 26 and September 14, 2017, Griffin conducted a Full Air Compliance Evaluation at the Miller facility.

31. On September 14, 2017, there were measured visible emissions from the shredder that averaged 12, 26.3, 29.1, 19.4, and 25.8 percent.

32. On March 8, 2018, DNR sent a Notice of Violation and Enforcement Conference to the Defendants.

33. On March 18, 2018, DNR held an Enforcement Conference with the Defendants.

34. On October 1, 2019, there were measured visible emissions from the shredder that averaged 15, 45.8, 39.3, 46, and 39.5 percent.

**VIOLATION 1: FAILURE TO DEMONSTRATE COMPLIANCE WITH  
PARTICULATE MATTER EMISSION LIMIT**

35. Condition I.B.1.b.(1) of the Permit provides, in relevant part, that for Stack 21, Process P21, and Control Devices C31, C32 and C33 – 7,000 hp Shredder – primary shredding, the permittee must use the cyclone (C31), venturi scrubber (C32), HEAF unit (C33) and mist eliminator to control emissions from the primary shredding process (P21) at all times the process is in operation.

36. The Cyclone Fan is part of the cyclone (C31).

37. The Defendants violated Condition I.B.1.b.(1) of the Permit and Wis. Stat. § 285.60(7) on March 8 and 9, 2017, when they operated the shredder while the Cyclone Fan was not in operation, thereby failing to demonstrate compliance with the PM emission limit.

**VIOLATION 2: FAILURE TO DEMONSTRATE COMPLIANCE WITH BACT  
FOR PCB EMISSIONS**

38. Condition I.B.3.a of the Permit defines the Best Available Control Technology (BACT) to limit PCB emissions for the shredder, Process P21.

39. Condition I.B.3.b(1) of the Permit requires the permittee to demonstrate compliance with the BACT emission limitation for PCBs by meeting the requirements of Permit conditions I.B.1.b(1)-(8).

40. Condition I.B.1.b.(1) of the Permit provides, in relevant part, that for Stack 21, Process P21, and Control Devices C31, C32 and C33 – 7,000 hp

Shredder – primary shredding, the permittee must use the cyclone (C31), venturi scrubber (C32), HEAF unit (C33) and mist eliminator to control emissions from the primary shredding process (P21) at all times the process is in operation.

41. On March 8 and 9, 2017, the Defendants failed to demonstrate compliance with Condition I.B.3.b(1) of the Permit. Whether or not any PCB emissions resulted from the failure to operate the Cyclone Fan is unknown.

42. The Defendants violated Condition I.B.3.b(1) of the Permit and Wis. Stat. § 285.60(7) on March 8 and 9, 2017, when they operated the shredder while the Cyclone Fan was not in operation, thereby failing to demonstrate compliance with BACT for PCB emissions.

### **VIOLATION 3: VISIBLE EMISSIONS OPACITY EXCEEDANCES**

43. Condition I.B.2.a(1) of the Permit states that visible emissions may not exceed 20 percent opacity from the shredder.

44. The Defendants violated Condition I.B.2.a(1) of the Permit and Wis. Stat. § 285.60(7) on February 23, 2016, March 9 and September 14, 2017, and October 1, 2019, by emitting visual emissions from the shredder with an opacity greater than 20 percent.

**VIOLATION 4: FAILURE TO FOLLOW MALFUNCTION PREVENTION AND ABATEMENT PLAN**

45. Condition I.ZZZ.5.(1) of the Permit states that “[a] malfunction prevention and abatement plan [MPAP] shall be prepared and followed for the plant.”

46. The MPAP required the Defendants to keep a spare fan in the inventory at the Miller facility.

47. The MPAP provides, “Should a malfunction of the 7000 HP Shredder Primary Cyclone (C31) occur, the airflow through the control device would be curtailed and shredding of material will stop until the malfunction is corrected.”

48. Malfunction is defined as “any sudden failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner.” Wis. Admin. Code § NR 400.02(94).

49. The Defendants violated Condition I.ZZZ.5.(1) of the Permit and Wis. Stat. § 285.60(7) on March 8 and 9, 2017, by failing to follow the MPAP.

**VIOLATION 5: FAILURE TO REPORT MALFUNCTION TO DNR**

50. Condition II.D.1.b of the Permit requires the permittee to notify DNR by the next business day following any “[m]alfunction or other unscheduled event which causes or may cause any emission limitation to be exceeded.”



51. Condition II.D.1.b of the Permit requires the notification of malfunction to include “the cause and duration of the exceedance, the period of time considered necessary for the correction, and measures taken to minimize emissions during the period.”

52. The Defendants violated condition II.D.1.b of the Permit on March 8 and 9, 2017, by failing to notify DNR of the Cyclone Fan malfunction by the next business day.

### **PENALTY PROVISIONS**

53. Wisconsin Stat. § 299.95 authorizes the attorney general to enforce Wis. Stat. ch. 285 and all rules promulgated and permits issued under that chapter, subject to exceptions not applicable to this case. Under Wis. Stat. § 299.95, the circuit court for Dane County or the county where the violation occurred has jurisdiction to enforce Wis. Stat. ch. 285 and all rules promulgated and permits issued under that chapter “by injunctive and other relief appropriate for enforcement.”

54. Wisconsin Stat. § 285.87(1) states that any person who violates this chapter or any rule promulgated under this chapter or any permit issued under this chapter shall forfeit not less than \$10 nor more than \$25,000 for each violation. Each day of continued violation is a separate offense.

## RELIEF REQUESTED

WHEREFORE, plaintiff asks the Court to enter judgment as follows:

1. Forfeitures as provided in Wis. Stat. § 285.87(1);
2. The 26 percent penalty surcharge pursuant to Wis. Stat. § 814.75(18), the 20 percent environmental surcharge pursuant to Wis. Stat. § 814.75(12), the 1 percent jail surcharge pursuant to Wis. Stat. § 814.75(14), \$25.00 in court costs pursuant to Wis. Stat. § 814.63(1), the \$13.00 crime laboratories and drug law enforcement surcharge pursuant to Wis. Stat. § 814.75(3), the \$68.00 court support services surcharge under Wis. Stat. § 814.75(2), and the \$21.50 justice information system surcharge under Wis. Stat. § 814.75(15);
3. An injunction requiring the defendant to operate in compliance with the Permit and Wisconsin laws regulating air pollution; and
4. Any other relief the Court deems just and appropriate.

Dated this 14th day of January, 2021.

JOSHUA L. KAUL  
Attorney General of Wisconsin

Electronically signed by Sarah C. Geers

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