

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

EXPEDITED SETTLEMENT  
AGREEMENT

DOCKET NO: CAA-04-2009-8004(b)

This ESA is issued to:

City of Smyrna  
Smyrna Water Treatment Plant  
156 Sharp Springs Road  
Smyrna, Tennessee 37167

for violating 40 CFR § 68.67, 40 CFR § 68.69 and Section 112(r)(7) of the Clean Air Act.

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency (EPA), Region 4, the Director of the Air, Pesticides and Toxics Management Division (Complainant), and by the City of Smyrna, Tennessee (Respondent), pursuant to Section 113(a)(3) and (d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(a)(3) and (d), and pursuant to 40 CFR § 22.13(b).

ALLEGED VIOLATIONS

Based on a compliance monitoring inspection conducted at the Respondent's Water Treatment Plant located at 156 Sharp Springs Road, Smyrna, Tennessee, on October 18, 2007, EPA alleges that the Respondent violated the Act's Chemical Accident Prevention Program when Respondent did not provide evidence that:

1. It had performed a process hazard analysis using a team with expertise in engineering and process operations to identify, evaluate and control process hazards as required by 40 C.F.R § 68.67(a).
2. It had developed written operating procedures which address the following:

Steps for each operating phase:

- (a) Emergency shutdown including the conditions under which emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner (40 CFR § 68.69(a)(1)(iv)), and

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- (b) Startup following a turnaround, or after an emergency shutdown (40 CFR § 68.69(a)(1)(vii)); and

Safety and Health Considerations:

- (a) Properties of, and hazards presented by process chemicals (40 CFR § 68.69(a)(3)(i)), and
  - (b) Control measures to be taken if physical contact or airborne exposure occurs (40 CFR § 68.69(a)(3)(iii)).
3. It has annually certified that operating procedures are current and accurate (40 C.F.R § 68.69(c)).

SETTLEMENT

In consideration of Respondent's size, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the entire record the parties enter into the ESA in order to settle the violations cited above, for the total penalty amount of **\$1080**.

This settlement is subject to the following terms and conditions: the Respondent by signing below admits the jurisdictional allegations contained herein, neither admits nor denies the specific factual allegations contained herein, and consents to the assessment of the penalty as stated above; Respondent waives its rights to a hearing afforded by Section 113(d)(2)(A) of the Act, 42 U.S.C § 7413(d)(2)(A), and to contest the allegations contained in this ESA; and each party to this action shall bear its own costs and fees, if any.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has corrected the alleged violations listed in this ESA. Respondent shall pay a civil penalty of **\$1080**. **Please note that payment should not be made until after Respondent receives a copy of the fully executed ESA.** Within fifteen (15) days after receiving a copy of the fully executed ESA, the Respondent shall send a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$1080**, in payment of the full penalty amount to one of the following addresses:

For payment sent via U.S. Postal Service  
U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000; or

For payment sent via overnight mail service (FedEx, UPS)

At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this ESA to:

Sáundi Wilson  
U. S. EPA Region 4  
Office of Environmental Accountability  
61 Forsyth Street  
Atlanta, Georgia 30303, and

Victor L. Weeks  
U. S. EPA Region 4  
EPCRA Enforcement Section  
61 Forsyth Street  
Atlanta, Georgia 30303

Upon Respondent's payment of the penalty, EPA will take no further civil action against Respondent for the alleged violations of the Act referenced in this ESA. EPA does not waive any other enforcement action for any other violations of the Act or any other statute.

The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Caron B. Falconer  
U. S. EPA - Region 4  
61 Forsyth St., S. W.  
Atlanta, Georgia 30303  
(404) 562-8451

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Bobby Gene Spivey Date: 1-13-09

Name (print): BOBBY GENE SPIVEY

Title (print): MAYOR  
City of Smyrna, Tennessee

ATTEST:

FOR COMPLAINANT:

Dianne Waldron  
Dianne Waldron, Town Clerk

Beverly H. Banister

Date: 12/12/08

Beverly H. Banister  
Director  
Air, Pesticides & Toxics  
Management Division  
Region 4

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

Susan B. Schub

Date: 1/26/2009

Susan B. Schub  
Regional Judicial Officer

Caron B. Falconer  
U. S. EPA - Region 4  
Air, Pesticides and Toxics  
Management Division  
61 Forsyth Street  
Atlanta, GA 30303

(Via EPA's internal mail)

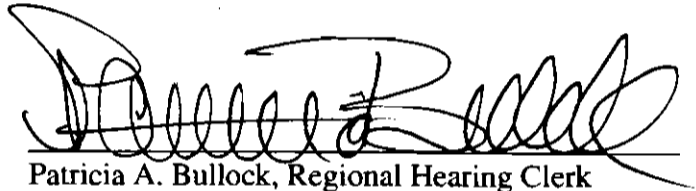
Elizabeth O'Sullivan  
U. S. EPA - Region 4  
Office of Environmental Accountability  
61 Forsyth Street  
Atlanta, GA 30303

(Via EPA's internal mail)

Ms. Michelle Komorowski Elliott  
Town Attorney  
Town of Smyrna City Hall  
315 S. Lowry Street  
Smyrna, Tennessee 37167

(Via Certified Mail -  
Return Receipt Requested)

Date: 1-27-09



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental Protection Agency  
Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street  
Atlanta, Georgia 30303  
404-562-9511

**EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE COMPLETED BY THE ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 11/22/09  
(Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9504  
(Office) (Telephone Number)

- |  |  |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree<br>USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement<br>FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree<br>DOJ COLLECTS      | <input type="checkbox"/> Oversight Billing - Cost Package required:<br>Sent with bill              |
| <input type="checkbox"/> Other Receivable                                      | <input type="checkbox"/> Not sent with bill  |
| <input type="checkbox"/> This is an original debt                              | <input type="checkbox"/> Oversight Billing - Cost Package not required                             |
|  | <input type="checkbox"/> This is a modification  |

PAYEE: Smurna (TN) Water Treatment Plant  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 1081  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA 04 2009 8004(b)

The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Office: \_\_\_\_\_

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_ Date \_\_\_\_\_

If you have any questions, please call: \_\_\_\_\_ of the Financial Management Section at: \_\_\_\_\_

**DISTRIBUTION:**

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- |  |   |
|--|---|
| 1. Debt Tracking Officer<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EAD)<br>3. Designated Program Office |
|--|---|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- |  |   |
|--|---|
| 1. Originating Office<br>2. Regional Hearing Clerk | 3. Designated Program Office<br>4. Regional Counsel (EAD) |
|--|---|