



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUL 14 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Mark D. Bamberg
Operations Manager
Hendersonville Utility District
125 Indian Lake Road
Hendersonville, Tennessee 37077

SUBJECT: Expedited Settlement Agreement
Hendersonville Utility District, Hendersonville, Tennessee
Docket No. CAA-04-2009-8031(b)

Dear Mr. Bamberg:

Enclosed please find an executed copy of the Expedited Settlement Agreement (ESA) that resolves the Clean Air Act (CAA) matter (Docket No. CAA-04-2009-8031(b)) involving the Hendersonville Utility District, Hendersonville, Tennessee. The ESA was filed with the Regional Hearing Clerk, as required by 40 C.F.R. Part 22 and became effective on today's date.

As required by the ESA, within thirty days of receipt of this letter, a cashier's check or certified check in the amount of \$2280, made out to the "Treasurer, United States of America," should be submitted 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)
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson @ 314-418-4087


The Docket No. should be included on the check. Also, a separate copy of the check and a written statement that payment has been made in accordance with this ESA should be sent to the following individuals:

Saundi 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.

If you have any questions, please call Victor Weeks at (404) 562-9189.

Sincerely,

A handwritten signature in black ink, appearing to read 'Caron B. Falconer', written in a cursive style.

Caron B. Falconer
Chief, EPCRA Enforcement Section

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
EXPEDITED SETTLEMENT
AGREEMENT**

DOCKET NO: CAA-04-2009-8031(b)

This ESA is issued to:

**Hendersonville Utility District
125 Indian Lake Road
Hendersonville, Tennessee 37077**

for violating 40 CFR § 68.65, 40 CFR § 68.67, 40 CFR § 68.69, 40 CFR § 68.79 and Section 112(r)(7) of the Clean Air Act.

2009 JUL 14 AM 10:44
HEARING CLERK
EPA REGION 4

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 Hendersonville Utility District, Hendersonville, 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 § 2.13(b).

ALLEGED VIOLATIONS

Based on a compliance monitoring inspection conducted at the Respondent's facility located at 131 Savo Bay Drive, Hendersonville, Tennessee, on August 15, 2007, EPA alleges that the Respondent violated the Act's Chemical Accident Prevention Program when Respondent did not provide evidence that:

It has documented all information pertaining to the technology of the process, including piping and instrumentation diagrams as required by 40 CFR § 68.65(d)(1)(ii);

It has performed and documented an initial process hazard analysis, to identify, evaluate and control the hazards involved in the process as required by 40 CFR § 68.67(a);

It has developed and implemented written operating procedures that address the following elements found at 40 CFR § 68.69(a): (3) safety and health considerations, including (i) properties of, and hazards presented by the chemicals used in the process; and (iii) control measures to be taken if physical contact or airborne exposure occurs;

It has annually certified that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary as required by 40 CFR § 68.69(c); and

It has conducted audits to evaluate its compliance with the chemical accident prevention program requirements at least every three years, and based on such audits, certified that the procedures and practices are adequate and are being followed as required by 40 CFR § 68.79(a).

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 **\$2280**.

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 **\$2280**. **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 **\$2280**, 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)
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson @ 314-418-4087

The Respondent's name and the Docket Number of this ESA must be included on the check. The Docket Number is located at the top left corner of the first page of this ESA.

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:

Saundi 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 correction of alleged violations and 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.

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:

Mark D. Bamberg Date: 4/10/09

Name (print): Mark D. Bamberg

Title (print): Operations Manager
Hendersonville Utility District, Hendersonville, Tennessee

FOR COMPLAINANT:

Carol L. Kemker Date: 4/9/09

Carol L. Kemker
Acting 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: 7/13/09

Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Expedited Settlement Agreement, in the matter of Hendersonville Utility District, Hendersonville, Tennessee, CAA-04-2009-8031(b), on the parties listed below in the manner indicated:

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)

Ellen Rouch
U. S. EPA - Region 4
Office of Environmental Accountability
61 Forsyth Street
Atlanta, GA 30303

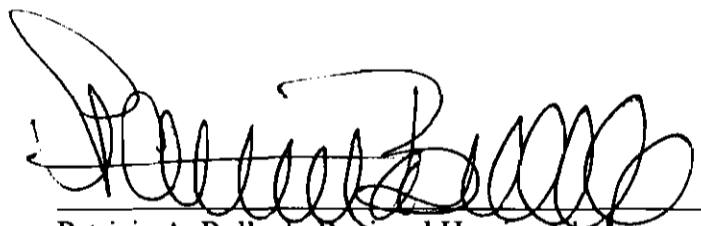
(Via EPA's internal mail)

Mr. Mark D. Bamberg
Operations Manager
Hendersonville Utility District
125 Indian Lake Road
Hendersonville, Tennessee 37077

(Via Certified Mail -
Return Receipt Requested)

Date:

7-14-09



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 7/10/09
(Name) (Date)

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

- | | |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree
USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree
DOJ COLLECTS | <input type="checkbox"/> Oversight Billing - Cost Package required:
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: Hendersonville Utility District
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 2280
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA 04 2009 803(Cb)

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
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD) |
| | 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 | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |