



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGIONS 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

SC-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Sarah Lynn, Esq.
Bailey Cavaleri, LLC
10 West Broad Street, Suite 2100
Columbus, Ohio 43215

Re: Dana Atlantic, LLC, Toledo, Ohio, Consent Agreement and Final Order.
Docket No. CERCLA-05-2006-0005

Dear Ms. Cavaleri:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. EPA has filed the other original CAFO with the Regional Hearing Clerk on March 6, 2006.

Please pay the civil penalty in the amount of \$24,172 in the manner prescribed in paragraph 10, and reference your check with the number BD 05306T012B and docket number CERCLA-05-2006-0005. Your payment is due on April 5, 2006 (within thirty calendar days of the filing date).

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Ann L. Coyle, Associate Regional Counsel, at (312) 886-2248. Thank you for your assistance in resolving this matter.

Sincerely yours,

A handwritten signature in cursive script that reads "Mark J. Horwitz".

Mark J. Horwitz, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

cc: Regional Hearing Clerk
U.S. EPA Region 5

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No. CERCLA-05-2006-0005
)
Dana Atlantic, LLC) Proceeding to Assess a Civil
Toledo, Ohio) Penalty Under Section 109 of the
) Comprehensive Environmental
) Response, Compensation, and
) Liability Act
Respondent.)
_____)

CONSENT AGREEMENT AND FINAL ORDER

1. The Complainant, the Director, Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5, brought this administrative action seeking a civil penalty under Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9609.

2. On November 3, 2005, U.S. EPA filed the Complaint in this action against Glacier Daido America, LLC (GDA). The Complaint alleges that GDA violated Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), by failing to immediately notify the National Response Center of a release which occurred at its facility in Bellefontaine, Ohio on June 23, 2005. Since the release occurred, GDA sold its assets, including the Bellefontaine, Ohio, plant and was renamed Dana Atlantic, LLC. GDA's successor corporation, Dana Atlantic, LLC, is the Respondent in this case.

3. On January 24, 2006, U.S. EPA filed an Amended Complaint in this matter, which reflects the change in the name of the Respondent and that the Complainant in the matter has

changed from the Chief of the Office of Chemical Emergency Preparedness and Prevention, Superfund Division, to the Director of the Superfund Division, due to a reorganization of the U.S. EPA Region 5 Superfund Division.

Stipulations

4. Dana Atlantic, LLC, admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint.

5. Dana Atlantic, LLC, waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

6. The parties consent to the terms of this CAFO.

7. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

8. This CAFO resolves Respondent's liability for federal civil penalties for the violations alleged in the Complaint.

Civil Penalty

9. In consideration of Respondent's cooperation and willingness to settle this matter, the U.S. EPA agrees to mitigate the proposed penalty of \$28,438 to \$24,172.

10. Within 30 days after the effective date of this CAFO, Respondent must pay a \$24,172 civil penalty for the CERCLA violation. Respondent must pay the penalty by sending a

cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

U.S. EPA, Region 5
ATTN: Superfund Accounting
P.O. Box 70753
Chicago, Illinois 60673

The check must note the case title of this matter: Dana Atlantic, LLC, the docket number of this CAFO (CERCLA-05-2006-0005) and the billing document number 05306T012B

11. A transmittal letter, stating the case title, Respondent's complete address, the case docket number and the billing document number must accompany the payment. Respondent must send copies of the checks and transmittal letters to:

Regional Hearing Clerk, (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

James Entzminger, (SC 6J)
Chemical Emergency Preparedness
and Prevention Section
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

Ann L. Coyle, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

12. This civil penalty is not deductible for federal tax purposes.

13. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the

penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

14. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a six percent per year penalty on any principal amount not paid within 90 days of the date that this CAFO has been entered by the Regional Hearing Clerk.

General Provisions

15. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint.

16. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

17. This CAFO does not affect Respondent's responsibility to comply with CERCLA and other applicable federal, state and local laws, and regulations.

18. This CAFO is a "final order" for purposes of U.S. EPA's Enforcement Response Policy for Section 103 of CERCLA.

19. The terms of this CAFO bind Respondent and its successors, and assigns.

20. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

21. Each party agrees to bear its own costs and fees, including attorneys' fees, in this action.

22. This CAFO constitutes the entire agreement between the parties.

U.S. Environmental Protection Agency,
Complainant

Date: 2-28-06

By: Richard C Karl
Richard C. Karl, Director
Superfund Division
U.S. EPA, Region 5 Division
Region 5

Dana Atlantic, LLC, Respondent

Date: 2/20/06


Signature: [Signature]
Dan Fisher, Secretary
Dana Atlantic, LLC

In the Matter of:
Dana Atlantic, LLC
Toledo, OH
Docket No. CERCLA-05-2006-0005

FINAL ORDER

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. IT IS SO ORDERED.

Date: 3-1-06

By: 

Thomas V. Skinner
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

In the Matter of:
Dana Atlantic, LLC
Toledo, OH
Docket No. CERCLA-05-2006-0005

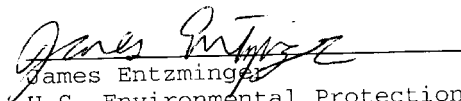
CERTIFICATE OF SERVICE

I, James Entzminger, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CERCLA-05-2006-0005 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, the Regional Judicial Officer, via interoffice mail, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to and Dana Atlantic, LLC's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Sarah Lynn
Bailey Cavaliere, LLC
10 West Broad Street, Suite 2100
Columbus, Ohio 43215

REC'D
6 MAR -6 AM 5:55
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 5

on the 6 day of March, 2006.


James Entzminger
U.S. Environmental Protection Agency
Region 5