



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

SEP 06 2012.

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Carlos C. Smith, Esq.  
Miller & Martin PLLC  
Suite 1000 Volunteer Building  
832 Georgia Avenue  
Chattanooga, Tennessee 37402-2289

Re: Weakley County Municipal Electric System  
Consent Agreement and Final Order (CAFO)  
Docket No. TSCA-04-2012-2909(b)

Dear Mr. Smith:

Enclosed please find a copy of the executed CAFO as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CAFO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

Also enclosed, please find a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Weakley County Municipal Electric System on notice of its potential duty to disclose to the Securities Exchange Commission any environmental actions taken by the U.S. Environmental Protection Agency.

If you have any questions or concerns, please contact Kris Lippert, of my staff, at (404) 562-8605.

Sincerely,

A handwritten signature in black ink, appearing to read "Cesar A. Zapata".

Cesar A. Zapata, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

Enclosures

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

RECEIVED  
EPA REGION IV  
2012 SEP - 6 PM 3:43  
HEARING CLERK

In the Matter of: )  
)  
Weakley County Municipal Electric System )  
11181 Highway 22 )  
Martin, Tennessee 38237 )  
)  
Respondent. )  
\_\_\_\_\_ )

Docket No. TSCA-04-2012-2909(b)

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the RCRA Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Weakley County Municipal Electric System (WCMES).
2. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a); is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under TSCA to the EPA Region 4 Regional Administrator by EPA Delegation 12-2-A, dated May 11, 1994. The Region 4 Regional Administrator has redelegated this authority to the Director of the Resource Conservation and Recovery Act (RCRA) Division by EPA Region 4 Delegation 12-2-A, dated January 14, 2009. Pursuant to that Delegation, the Director of the RCRA Division has the authority to commence an enforcement action as the Complainant in this matter and has

the authority to sign Consent Agreements memorializing settlements between the EPA and Respondent.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## **II. Preliminary Statements**

4. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605, the Administrator of EPA promulgated regulations in 40 C.F.R. Part 761, pertaining to Polychlorinated Biphenyls (PCBs). Failure to comply with any such regulation constitutes a violation of Section 15 of TSCA, 15 U.S.C. § 2614. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$32,500 for each such violation occurring between March 15, 2004, and January 12, 2009, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed. Each day a violation continues may constitute a separate violation.
5. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for EPA in this proceeding:

Doug McCurry, Chief  
North RCRA and OPA Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-8649

### **III. Specific Allegations**

6. Respondent is a user of PCB Items operating in the State of Tennessee and is a “person” as defined in 40 C.F.R. §761.3.
7. On or about March 30, 2010, an inspection was conducted by the Tennessee Department of Environment and Conservation (TDEC) at Respondent’s facility located at 11181 Highway 22, Martin, Tennessee, 28237, to determine compliance with the PCB regulations.
8. 40 C.F.R. §761.65(c)(3) requires PCB storage areas to be marked with an M<sub>L</sub> label. At the time of the inspection, the TDEC inspector observed that WCMES’ PCB storage building was not marked with an M<sub>L</sub> label at the points of access/entry. Therefore, Respondent violated 40 C.F.R. § 761.65(c)(3).
9. 40 C.F.R. § 761.180(a)(2) requires a facility to keep a written annual document log which includes the following: the unique manifest number of every manifest generated during the calendar year with the weight of the bulk PCB waste or serial number or other means to identify each PCB Article, Container, or PCB Article Container, the date the waste was removed from service, date it was placed into transport and date of disposal. During the March 30, 2010, inspection, annual document logs were not available. Therefore, it is alleged that Respondent violated 40 C.F.R. § 761.180(a)(2).
10. 40 C.F.R. § 761.205(f) requires that when a facility has previously notified EPA of its PCB waste handling activities using EPA Form 7710-53 and those activities change, the facility must resubmit EPA Form 7710-53 to reflect those changes no later than 30 days from when a change is made. The Highway 22 site is a new location reportedly first occupied by WCMES in November 2009. The facility location shown for WCMES on EPA’s Activity Database, at the time of the inspection, was 501 Lindell Street. At the time of the inspection, there was not a

record showing that notification of the new location of PCB activity had been given. Therefore, it is alleged that Respondent violated 40 C.F.R. § 761.205(f).

#### **IV. Consent Agreement**

11. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.
12. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
13. For the purposes of achieving a resolution by settlement, Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
14. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA.
15. This CAFO constitutes a settlement between Respondent and EPA of all claims alleged by EPA for civil penalties pursuant to Section 16(a) of TSCA, for the specific violations alleged herein. Except as specifically provided in this CAFO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is Respondent's responsibility to comply with said laws and regulations.
16. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of TSCA.

**V. Final Order**

17. Respondent shall pay as a settlement a civil penalty of TWO THOUSAND ONE HUNDRED EIGHTY-EIGHT DOLLARS (\$2,188.00), which sum shall be paid within 30 days from the effective date of this CAFO.
18. Respondent shall remit the agreed civil penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check to the following address by U.S. Postal Service:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

**The check shall reference on its face the name of the  
Respondent and Docket Number of this CAFO.**

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.), please use the following address:

U. S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
SL-MO-C2GL  
St. Louis, MO 63101  
(314) 418-1028

19. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment has been made in accordance with this CAFO, to each of the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960;

Doug McCurry, Chief  
North RCRA and OPA Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-8649;

and

Saundi Wilson  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 3030-8960.

20. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments from state and federal income taxation shall constitute a violation of this CAFO.
21. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
22. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
23. This CAFO shall be binding upon the Respondent, its successors and assigns.
24. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

**VI. Effective Date**

25. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

**Respondent:** Weakley County Municipal Electric System  
**Docket No.:** TSCA-04-2012-2909(b)

By:  (Signature) Date: 8-24-12

Name: Faron L. Collins (Typed or Printed)

Title: General Manager (Typed or Printed)

**Complainant:** U.S. Environmental Protection Agency

By:  Date: 9-4-12  
G. Alan Farmer, Director  
RCRA Division  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

**APPROVED AND SO ORDERED** this 6 day of Sept, 2012.

By:   
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 Consent Agreement and Final Order, In the Matter of: Weakley County Municipal Electric System, Docket No. TSCA-04-2012-2909(b), on the parties listed in the manner indicated:

Kris Lippert  
RCRA and OPA Enforcement and  
Compliance Branch  
U.S. EPA, Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

(Via EPA's internal mail)

Quantindra Smith  
RCRA and OPA Enforcement and  
Compliance Branch  
U.S.EPA, Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

(Via EPA's internal mail)

Michiko Kono  
U.S. EPA, Region 4  
Office of Environmental Accountability  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

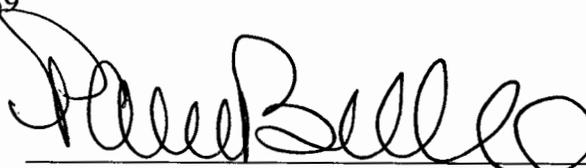
(Via EPA's internal mail)

(Respondent)

(Via Certified Mail, Return Receipt  
Requested)

Carlos C. Smith  
Miller & Martin PLLC  
Suite 1000 Volunteer Building  
832 Georgia Avenue  
Chattanooga, Tennessee 37402-2289

Date: 9-6-12



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9511