



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

AUG 14 2018

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Jeff Wilkerson  
Site Leader  
Winchester Farms Dairy  
675 Rolling Hills Lane  
Winchester, Kentucky 40391

Re: Winchester Farms Dairy  
Expedited Settlement Agreement  
CAA-04-2018-8007(b)

Dear Mr. Wilkerson:

Enclosed, please find an executed copy of the Expedited Settlement Agreement (ESA) that resolves the Clean Air Act (CAA) matter (Docket No. CAA-04-2018-8007(b)) involving Winchester Farms Dairy. The ESA was filed with the Regional Hearing Clerk, as required by 40 CFR Part 22 and became effective on the date of the filing. **The penalty payment should be made within 15 days after the receipt of the signed, approved and filed ESA.**

If you need additional information in this matter, please contact Mr. Om P. Devkota at (404) 562-8963.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Toney", written over a horizontal line.

Anthony G. Toney  
Chief

Chemical Safety and Enforcement Branch

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

**EXPEDITED SETTLEMENT AGREEMENT**

**DOCKET NO: CAA-04-2018-8007(b)**

**This ESA is issued to: Kroger Limited Partnership II d/b/a Winchester Farms Dairy  
675 Rolling Hills Lane  
Winchester, Kentucky 40391**

**for alleged violations of 40 C.F.R § 68.39(a), 40 C.F.R § 68.39(b), 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, Region 4, the Director of the Air, Pesticides and Toxics Management Division (Complainant), and by Kroger Limited Partnership II d/b/a Winchester Farms Dairy (Respondent), pursuant to Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), and pursuant to 40 C.F.R § 22.13(b).

**ALLEGED VIOLATIONS**

Based on a compliance monitoring inspection conducted at the Respondent's facility located at 675 Rolling Hills Lane, Winchester, Kentucky, on March 28, 2017, the EPA alleges that the Respondent violated the Act's Chemical Accident Prevention Program, when at the time of inspection, Respondent did not provide evidence that:

It maintained records for worst-case scenarios: assumptions and parameters used as required by 40 C.F.R § 68.39(a); and

It maintained records for alternative release scenarios: assumptions and parameters used, as required by 40 C.F.R § 68.39(b).

**SETTLEMENT**

In consideration of Respondent's size, its full compliance history, its good faith efforts 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 alleged violations cited above, for the total penalty amount of **\$1,200**.

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 appeal this ESA or otherwise 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 taken actions to address the alleged violations listed in this ESA.

Within fifteen (15) days of receiving a copy of the fully executed ESA, Respondent shall pay a civil penalty in the amount of **\$1,200**. Respondent's payment shall be made by sending a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$1,200** in payment of the full penalty amount to one of the following addresses or via wire transfer:

For payment sent via electronic transfer

For payment by wire transfer, in lieu of a cashier's check or certified check, if desired, should be directed to the Federal Reserve Bank of New York using the following information:

ABA: 021030004

Account: 68010727

SWIFT address: FRNYUS33

33 Liberty Street

New York, New York 10045

Beneficiary: "U.S. Environmental Protection Agency";

**The wire transfer instructions shall reference the Respondent's name and Docket Number of this ESA.**

For payment sent via Standard Delivery

U.S. Environmental Protection Agency

Cincinnati Finance Center Box 979077

St. Louis, Missouri 63197-9000; or

For payment sent for Signed Receipt Confirmation (FedEx, DHL, UPS, USPS Certified, Registered, etc.)

U.S. Environmental Protection Agency

Cincinnati Finance Center Box 979077

1005 Convention Plaza

SL-MO-C2-GL

St. Louis, Missouri 63101

Delivery Location Phone Number: 314- 425-1819

**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:

Regional Hearing Clerk

U.S. EPA Region 4

61 Forsyth Street, S.W.

Atlanta, Georgia 30303, and

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Account: 68010727

SWIFT address: FRNYUS33

33 Liberty Street

New York, New York 10045

Beneficiary: "U.S. Environmental Protection Agency";

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Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303, and

Om P. Devkota  
U.S. EPA Region 4  
Chemical Management and Emergency  
Planning Section  
61 Forsyth Street S.W.  
Atlanta, Georgia 30303

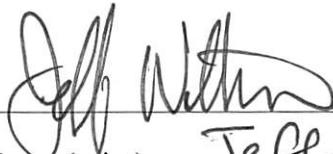
The penalty specified in this ESA shall represent civil penalties assessed by the EPA and shall not be deductible for purposes of State or Federal taxes.

Respondent's full compliance with this ESA shall only resolve Respondent's liability for Federal civil penalties for the violations alleged in this ESA. The EPA does not waive any other enforcement action for any other violations of the Act or any other statute.

This ESA is binding on the parties signing below. This ESA is effective upon filing with the Regional Hearing Clerk.

**The Reminder of this Page Intentionally Left Blank.**

FOR RESPONDENT:

  
Name (print): Jeff Wilkerson  
Title (print): Site Leader  
Kroger Limited Partnership II d/b/a Winchester Farms Dairy

Date: 6-18-18

FOR COMPLAINANT:

  
Beverly H. Banister  
Director  
Air, Pesticides and Toxics Management Division

Date: 8/9/18

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

  
Tanya Floyd  
Regional Judicial Officer

Date: August 14, 2018

Om P. Devkota  
U.S. EPA Region 4  
Chemical Management and Emergency  
Planning Section  
61 Forsyth Street S.W.  
Atlanta, Georgia 30303

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**The Reminder of this Page Intentionally Left Blank.**

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Expedited Settlement Agreement (ESA), in the matter of Winchester Farms Dairy., CAA-04-2018-8007(b), on the parties listed below in the manner indicated:

Om P. Devkota  
U. S. EPA, Region 4  
Air, Pesticides and Toxics  
Management Division

(Via EPA's internal mail)

Michi Kono  
U. S. EPA, Region 4  
Office of Regional Counsel

(Via EPA's internal mail)

Mr. Jeff Wilkerson  
Site Leader  
Winchester Farms Dairy  
675 Rolling Hills Lane  
Winchester, Kentucky 40391

(Via Certified Mail - Return Receipt Requested)

Date:

8-14-18



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