



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

FEB 05 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Dewayne Mercer
General Manager
Ballard County Cooperative, Inc.
475 West Kentucky Drive
La Center, Kentucky 42056

Re: Expedited Settlement Agreement
CAA-04-2019-8001(b)

Dear Mr. Mercer:

Enclosed, please find an executed copy of the Expedited Settlement Agreement (ESA) that resolves the Clean Air Act (CAA) matter, Docket No. CAA-04-2019-8001(b), involving Ballard County Cooperative, Inc. 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 "Anthony G. Toney".

Anthony G. Toney
Chief

Chemical Safety and Enforcement Branch

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-04-2019-8001(b)

This ESA is issued to: Ballard County Cooperative, Inc.
475 West Kentucky Drive
La Center, Kentucky 42056

for violating 40 C.F.R § 68.48(b), 40 C.F.R § 68.50(d), 40 C.F.R § 68.58(a), and Section 112(r)(7) of the Clean Air Act.

HEARING CLERK
2019 FEB -5 AM 9:45
USEPA REGION 4
OFFICE OF REGIONAL
COUNSEL

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency, Region 4, Director of the Air, Pesticides and Toxics Management Division (Complainant), and by Ballard County Cooperative, Inc. (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 475 West Kentucky Drive, La Center, Kentucky, on May 23, 2018, 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 ensured the process is designed in compliance with recognized and generally accepted good engineering practices as required by 40 C.F.R. § 68.48(b) when it did not provide for sufficient barriers for process tanks;

It updated the hazard review at least every five years as required by 40 C.F.R. § 68.50(d); and

It conducted a compliance audit at least every three years to verify the procedures and practices developed under the rule are adequate and are being followed as required by 40 C.F.R. § 68.58(a).

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 violations cited above, for the total penalty amount of \$4,200.

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 corrected 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 **\$4,200**. Respondent shall pay the penalty by electronic transfer, or by forwarding a cashier's or certified check payable to the "Treasurer, United States of America" to one of the addresses provided below:

For payment sent via electronic transfer

Federal Reserve Bank of New York

ABA = 021030004

Account = 68010727

SWIFT address = FRNYUS33

33 Liberty Street

New York, New York 10045

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

For cashier's or certified check payment sent via standard delivery

U.S. Environmental Protection Agency

Cincinnati Finance Center Box 979077

St. Louis, MO 63197-9000; or

For cashier's or certified check payment sent for signed receipt confirmation (FedEx, DSL, UPS, USPS Certified)

U.S. Environmental Protection Agency

Cincinnati Finance Center Box 979077

1005 Convention Plaza

SL-MO-C2-GL

St. Louis, MO 63101

(Delivery Location Phone Number: 314-425-1819).

The check shall reference on its face the Respondent's name and the Docket Number of the ESA. Within 24 hours of payment of the EPA Penalty, Respondent shall send a separate copy of the check or confirmation of electronic transfer, and a written statement that payment has been made in accordance with this Agreement, to the following persons at the following addresses:

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

Om Devkota
U.S. EPA Region 4
Air, Pesticides and Toxics Management Division
61 Forsyth Street SW
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 becomes effective after execution by the Regional Judicial Officer, on the date of filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Dewayne Mercer
Name (print): Dewayne Mercer
Title (print): General Manager
Ballard County Cooperative, Inc.

Date: 11/26/2018

FOR COMPLAINANT:

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

Date: 12/20/18

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

Tanya Floyd
Tanya Floyd
Regional Judicial Officer

Date: January 20, 2019

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 Ballard County Cooperative, Inc., CAA-04-2019-8001(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

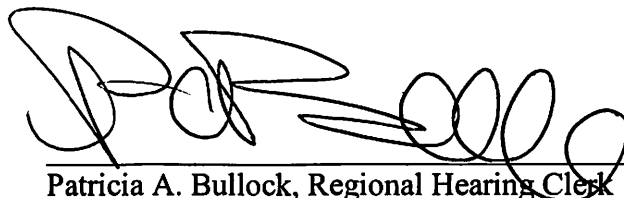
(Via EPA's internal mail)

Mr. Dewayne Mercer
General Manager
Ballard County Cooperative, Inc.
475 West Kentucky Drive
La Center, Kentucky 42056

(Via Certified Mail - Return Receipt Requested)

Date:

2-5-19



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