



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

FEB 01 2007

REPLY TO THE ATTENTION OF:

SC-6J

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

Skiles W. Boyd, Vice President  
The Detroit Edison Company  
2000 2<sup>nd</sup> Avenue  
Detroit, MI 48226-1279

Re: The Detroit Edison Company, River Rouge, Michigan, Consent Agreement and Final Order Docket No. CERCLA-05-2007-0002; EPCRA-05-2007-0001; MM-05-2007-0001

Dear Mr. Boyd:

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 FEB 01 2007.

Please pay the civil penalty for the Comprehensive Environmental Response Compensation and Liability Act violation in the amount of \$4,470 in the manner prescribed in paragraphs 8 or 9, and reference your check with the number BD 2750730B007 and docket number CERCLA-05-2007-0002. Your payment is due on MAR 05 2007 (within thirty calendar days of the filing date).

Please pay the civil penalty for the Emergency Planning and Community Right-to-Know Act violations in the amount of \$47,863.35 in the manner prescribed in paragraphs 10 or 11, and reference your check with the number BD 2750744E007 and docket number EPCRA-05-2007-0001. Your payment is due on MAR 05 2007 (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 Jeffrey Cahn, Associate Regional Counsel, at (312) 886-6670. Thank you for your assistance in resolving this matter.

Sincerely yours,

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

Enclosure

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

Jeffrey Cahn (w/ enclosure)  
Office of Regional Counsel  
U.S. EPA Region 5

Captain Eddie Washington, Chairperson (w/ enclosure)  
Susan Parker (w/ enclosure)  
MI SERC

William S. Blair, Attorney (w/ enclosure)  
The Detroit Edison Company  
2000 2<sup>nd</sup> Avenue, 600 W.C.B.  
Detroit, MI 48226-1279

Marcy Toney (w/ enclosure)  
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: ) **Docket No. CERCLA-05-2007-0002;**  
) **EPCRA-05-2007-0001; MM-05-2007-0001**  
)  
The Detroit Edison Company ) **Proceeding to Assess a Civil Penalty Under**  
River Rouge, Michigan ) **Section 109 of the Comprehensive Environmental**  
) **Response, Compensation, and Liability Act and**  
) **Section 325 of the Emergency Planning and**  
) **Community Right-to-Know Act of 1986,**  
Respondent. ) **42 U.S.C. § 11045**  
\_\_\_\_\_ )

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REGIONAL CLERK

**CONSENT AGREEMENT AND FINAL ORDER**

1. 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, and Section 325 of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045.

2. On October 20, 2006, U.S. EPA filed the Complaint in this action against Respondent, The Detroit Edison Company. The Complaint alleges that Respondent violated Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), by failing to immediately notify the National Response Center of a release of sodium hydroxide which occurred at its facility in River Rouge, Michigan on May 6, 2003; violated Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), by failing to immediately notify the Michigan State Emergency Response Commission (SERC) of the May 6, 2003 release and by failing to immediately notify the community emergency coordinator for the Local Emergency Planning Committee (LEPC) for an area likely to be affected by the May 6, 2003 release; violated Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), by failing to provide a written follow-up

emergency notice to the Michigan SERC and the LEPC as soon as practicable after the May 6, 2003 release occurred.

**Stipulations**

3. The Detroit Edison Company admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint.

4. The Detroit Edison Company waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

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

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

**Civil Penalty**

7. In consideration of Respondent's cooperation, willingness to quickly resolve this matter, new information relevant to determining when there was knowledge of a release that left the facility, and providing new information on how the risk to the environment has been stopped, U.S. EPA agrees to mitigate the proposed penalty of \$144,412.67 to \$52,333.35.

8. Within 30 days after the effective date of this CAFO, Respondent must pay a \$4,470 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 371531  
Pittsburgh, PA 15251-7531

The check must note the case title of this matter: The Detroit Edison Company, the docket number (CERCLA-05-2007-0002) of this CAFO and the billing document number 2750730B007.

9. Alternatively, Respondent may pay by wire transfer to Federal Reserve Bank of New York, Routing/ABA Number 021030004 for Account Number 68010727, U.S. EPA. The wire payment must have the billing document number 2750730B007.

10. Within 30 days after the effective date of this CAFO, Respondent must pay a \$47,863.35 civil penalty for the EPCRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

U.S. EPA - Region 5  
ATTN: Finance  
P.O. Box 371531  
Pittsburgh, PA 15251-7531

The check must note the case title of this matter: The Detroit Edison Company, the docket number (EPCRA-05-2007-0001) of this CAFO and the billing document number 2750744E007.

11. Alternatively, Respondent may pay by wire transfer to Federal Reserve Bank of New York, Routing/ABA Number 021030004 for Account Number 68010727, U.S. EPA. The wire payment must have the billing document number 2750744E007.

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

Regional Hearing Clerk, (E-13J)  
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

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

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

14. 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.

15. 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**

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

17. 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.

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

19. This CAFO is a "final order" for purposes of U.S. EPA's Enforcement Response Policy for Section 304 of EPCRA and Section 103 of CERCLA.

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

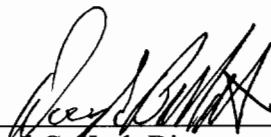
21. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

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

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

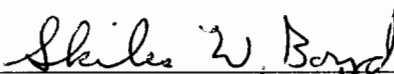
**U.S. Environmental Protection Agency, Complainant**

Date: 4/30/07

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

**The Detroit Edison Company, Respondent**

Date: 1/12/07

Signature:   
Print Name: Shiles W. Boyd  
Title: V.P. Environmental Management and Resources  
The Detroit Edison Company

In the Matter of:

The Detroit Edison Company

1 Belanger Park Drive

River Rouge, MI 48218


Docket No. CERCLA-05-2007-0002; EPCRA-05-2007-0001; MM-05-2007-0001



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: 1/31/07

By:   
Mary A Gade  
Regional Administrator  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

In the Matter of:  
The Detroit Edison Company  
1 Belanger Park Drive  
River Rouge, MI 48218  
Docket No. CERCLA-05-2007-0002; EPCRA-05-2007-0001; MM-05-2007-0001

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REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
CHICAGO, ILLINOIS

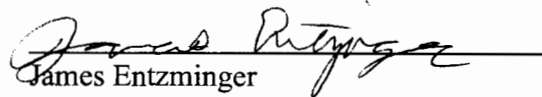
CERTIFICATE OF SERVICE

I, James Entzminger, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CERCLA-05-2007-0002; EPCRA-05-2007-0001; MM-05-2007-0001 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, to the Regional Judicial Officer, via interoffice mail, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to The Detroit Edison Company's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

William S. Blair, Attorney  
The Detroit Edison Company  
2000 2nd Avenue  
600 W.C.B.  
Detroit MI 48226-1279

Skiles W. Boyd, Vice President  
The Detroit Edison Company  
2000 2<sup>nd</sup> Avenue  
Detroit, MI 48226-1279

on the 1 day of February 2007.

  
James Entzminger  
U.S. Environmental Protection Agency  
Region 5

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REGIONAL HEARING CLERK