



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

APR 02 2013

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

Mr. Joe Burst  
Plant Operations Manager  
The C.F. Sauer Company  
728 North Main Street  
Mauldin, South Carolina 29662

RE: The C.F. Sauer Company  
Consent Agreement and Final Order - Docket No. CWA-04-2013-5129(b)

Dear Mr. Burst:

Enclosed is a copy of the executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CA/FO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

Also enclosed is a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts The C.F. Sauer Company on notice of its potential duty to disclose to the Securities Exchange Commission any environmental actions taken by the United States Environmental Protection Agency.

If you have any questions, please feel free to contact Mr. Roberto Busó at (404) 562-8530.

Sincerely,

A handwritten signature in blue ink that reads "CÉSAR ZAPATA".

César Zapata  
Chief, RCRA and OPA Enforcement and  
Compliance Branch  
RCRA Division

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF )  
 )  
The C.F. Sauer Company )  
728 North Main Street )  
Mauldin, South Carolina 29662 )  
 )  
Respondent )  
\_\_\_\_\_ )

CWA SECTION 311 CLASS I  
CONSENT AGREEMENT AND  
FINAL ORDER  
UNDER 40 C.F.R. § 22.13(b)  
  
Docket No. CWA-04-2013-5129(b)

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HEARING CLERK

**I. LEGAL AUTHORITY**

1. This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 311(b)(6)(B)(i) of the Clean Water Act (“CWA”), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and under the authority provided by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of the EPA, Region 4, who has in turn delegated these authorities through the Director, RCRA Division, to the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division (“Complainant”).

**II. CONSENT AGREEMENT**

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law, and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this Consent Agreement and Final Order (“CAFO”), and Respondent hereby agrees to comply with the terms of this CAFO. For purposes of this CAFO and settlement of this action, Respondent admits to the jurisdictional statements contained herein.

### III. STIPULATIONS

3. Respondent, The C.F. Sauer Company, is a corporation organized under the laws of the State of Virginia, doing business in the State of South Carolina. Respondent is a “person” within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

4. Respondent is the “owner” and “operator,” within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), of a mayonnaise production facility located at 728 North Main Street, Mauldin, South Carolina (the “Facility”).

5. The Facility is an “onshore facility” within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10).

6. The Facility is located adjacent to Gilder Creek, a tributary of the Enoree River. The Gilder Creek is a navigable water as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7) and 40 C.F.R. § 110.1 and is therefore subject to the jurisdiction of Section 311 of the CWA, 33 U.S.C. § 1321.

7. Soy bean oil constitutes “oil” within the meaning of Section 311(a)(1) of the CWA, 42 U.S.C. § 1321(a)(1).

8. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in such quantities as may be harmful.

9. Pursuant to Section 311(b)(4) of the CWA, 33 U.S.C. § 1321(b)(4), the criteria for determining the quantities of oil that may be harmful and thereby prohibited under Section 311(b)(3), 33 U.S.C. § 1321(b)(3), are codified at 40 C.F.R. § 110.3 to include discharges of oil that cause a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

#### **IV. ALLEGATIONS**

Complainant alleges, and Respondent neither admits nor denies, that:

10. On or about June 11, 2009, Respondent discharged approximately 24 barrels of soybean oil from a tank car at its Facility into Gilder Creek.

11. The discharge described above caused a film or sheen, within the meaning of 40 C.F.R. § 110.3, to be present on the surface of Gilder Creek and adjoining shorelines and, therefore, was in a quantity that has been determined to be harmful.

12. Accordingly, Respondent violated Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3).

#### **V. WAIVER OF RIGHTS**

13. Solely for the purpose of this CAFO, Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(i), and to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

#### **VI. PAYMENT OF CIVIL PENALTY**

14. Respondent consents to the payment of a civil penalty of SEVEN THOUSAND DOLLARS (\$7,000).

15. By executing this CAFO, Respondent certifies that all violations alleged herein have been corrected.

#### **VII. PAYMENT TERMS**

Based on the foregoing, the parties, in their own capacity or by their attorney or authorized representatives, hereby agree that:

16. No later than thirty (30) days after the effective date of the Final Order, Respondent shall

pay the penalty by means of a corporate cashier's or certified check, by electronic funds transfer ("EFT"), or on-line. If paying by check, Respondent shall submit a corporate cashier's or certified check, payable to "Environmental Protection Agency." The check shall bear the notation "OSLTF – 311," along with the title and docket number of this case.

If Respondent sends payment by the U.S. Postal Service, the payment shall be sent to:

U.S. Environmental Protection Agency  
**Fines and Penalties**  
Cincinnati Finance Center  
Post Office Box 979077  
St. Louis, Missouri 63197-9000

If Respondent sends payment by an overnight commercial delivery service such as DHL, FedEx or UPS, the payment shall be sent to:

U.S. Bank

Government Lockbox 979077  
**U.S. EPA Fines & Penalties**  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
314-418-1028

If Respondent sends payment by wire transfer, the wire transfer should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read  
"D 68010727 Environmental Protection Agency"

Respondent may also elect the On Line Payment Option, available through the Department of Treasury. This payment option can be accessed at [www.pay.gov](http://www.pay.gov). Enter "sfo 1.1" in the search field and then open the form and complete the required fields.

17. Respondent shall submit copies of the check (or, in the case of a wire transfer or on-line payment, a copy of the wire transfer or on-line confirmation) to the following people:

Patricia Bullock  
Regional Hearing Clerk  
U.S. EPA, Region 4  
Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

and to:

Larry Lamberth  
Chief, South Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. EPA, Region 4  
Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

18. Penalties paid pursuant to this CAFO are not deductible for federal purposes under 26 U.S.C. § 162(f).

19. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest, penalties, and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will begin to accrue on the civil penalty if not paid as specified above. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

(a) Interest. Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).

(b) Monthly Handling Charge. Respondent must pay a late payment handling charge of \$15.00 on any late payment, with an additional charge of \$15.00 for each subsequent thirty (30) calendar day period over which an unpaid balance remains.

(c) Non-Payment Penalty. On any portion of a civil penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to the charges which may accrue under subparagraphs (a) and (b).

20. If Respondent fails to meet the payment requirements set forth above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire penalty including the remaining principal balance of the civil penalty along with any interest that has accrued up to the time of payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described above in the event of such failure or default.

21. Further, if Respondent fails to meet the payment requirements set forth above, the EPA may refer the debt to a collection agency, a credit reporting agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.

## **VIII. GENERAL PROVISIONS**

22. The Final Order shall be binding upon Respondent and Respondent's officers, directors, agents, and successors or assigns.

23. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law.

24. Payment of the penalty pursuant to this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein. Except as otherwise set forth herein, compliance with this CAFO shall resolve the allegations of violations contained herein.

25. The undersigned representative of Respondent hereby certifies that he or she is fully authorized to enter into and execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the attached Final Order.

26. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents the EPA in this matter and who is authorized to receive service for the EPA in the proceeding:

Roberto Busó  
Assistant Regional Counsel  
Office of Environmental Accountability  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960  
404-562-8530  
[buso.roberto@epa.gov](mailto:buso.roberto@epa.gov)

27. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is to receive service for Respondent in this proceeding:

Mr. Joseph Burst  
Plant Operations Manager  
The C.F. Sauer Company  
728 North Main Street  
Mauldin, South Carolina 29662




**IX. EFFECTIVE DATE**

28. This Consent Agreement and Final Order is effective when the Final Order is filed with the Regional Hearing Clerk.

**CONSENTED AND AGREED TO:**

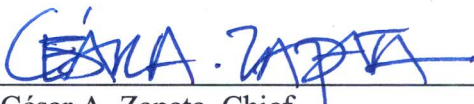
By: THE C.F. SAUER COMPANY

Date: 03/27/13

  
\_\_\_\_\_  
Joseph Burst  
Plant Operations Manager

By: U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 04/01/13

  
\_\_\_\_\_  
César A. Zapata, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF	)	CWA SECTION 311 CLASS I
	)	CONSENT AGREEMENT AND
The C.F. Sauer Company	)	FINAL ORDER
728 North Main Street	)	UNDER 40 C.F.R. § 22.13(b)
Mauldin, South Carolina 29662	)	
	)	
Respondent	)	Docket No. CWA-04-2013-5129(b)
_____	)	

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**BEING AGREED, IT IS SO ORDERED** this 1<sup>st</sup> day of April, 2013.

BY: Susan B. Schub  
Susan Schub  
Regional Judicial Officer

Roberto Busó  
Assistant Regional Counsel  
Office of Environmental Accountability  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

(Via EPA's internal mail)

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

(Via EPA's internal mail)

Joseph Burst  
Plant Operations Manager  
The C.F. Sauer Company  
728 North Main Street  
Mauldin, South Carolina 29662

(Via Certified Mail)

Dated this 2 day of April, 2013.



Patricia Bullock  
Regional Hearing Clerk  
U.S. EPA – Region 4  
Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

## NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the Office of Chief Counsel in the SEC's Division of Corporation Finance. The phone number is (202) 942-2900.