



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

AUG 04 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Eddie Allen
Senior Operations Manager
Barber Ice Cream Company
126 Barber Court
Birmingham, Alabama 35209

Dear Mr. Allen:

Enclosed, please find an executed copy of the Expedited Settlement Agreement (ESA) that resolves the Clean Air Act (CAA) matter (Docket No. CAA-04-2011-8013(b)) involving Barber Ice Cream Company. The ESA was filed with the Regional Hearing Clerk, as required by 40 CFR Part 22 and became effective on today's date.

As required by the ESA, within fifteen days of receipt of this letter, payment to the Treasurer, United States of America in the amount of \$4,500 should be submitted as follows:

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
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency";

For payment sent via U.S. Postal Service

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

For payment sent via overnight mail service (FedEx, UPS)

U.S. Bank

1005 Convention Plaza

Mail Station SL-MO-C2GL

St. Louis, MO 63101

Contact: Natalie Pearson @ 314-418-4087.

Also, a written statement that payment has been made in accordance with this ESA should be sent to the following individuals:

Saundi Wilson

U.S. EPA Region 4

Office of Environmental Accountability

61 Forsyth Street

Atlanta, Georgia 30303; and

Victor Weeks

U.S. EPA Region 4

EPCRA Enforcement Section

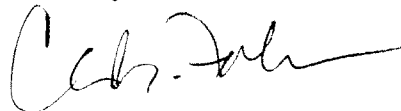
61 Forsyth Street

Atlanta, Georgia 30303.

Also enclosed, please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Security and Exchange Commission (SEC) any environmental enforcement actions taken by the EPA. If you have any questions with regards to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the SEC Notice.

If you need additional information in this matter, please call Victor Weeks at (404) 562-9189.

Sincerely,



Caron B. Falconer

Chief, EPCRA Enforcement Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

EXPEDITED SETTLEMENT
AGREEMENT

U.S. EPA, REGION 4
OFFICE OF ENVIRONMENTAL
ACCIDENTALITY
11 AUG -4 PM 3:10
Hearing Clerk *BD*

DOCKET NO: CAA-04-2011-8013(b)

This ESA is issued to: Barber Ice Cream Company
126 Barber Court
Birmingham, AL 35209

for violating 40 CFR § 68.69, 40 CFR § 68.71, 40 CFR § 68.87 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 (EPA), Region 4, the Director of the Air, Pesticides and Toxics Management Division (Complainant), and by Barber Ice Cream Company (Respondent), pursuant to Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), and pursuant to 40 CFR § 22.13(b).

ALLEGED VIOLATIONS

Based on a compliance monitoring inspection conducted at the Respondent's facility located at 126 Barber Court, Birmingham, Alabama, on July 13, 2010, 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:

Its operating procedures address "consequences of deviation" and "steps required to correct or avoid deviation" as required by 40 CFR § 68.69(a)(2)(i) & (ii);

For each employee involved in operating the process, it provided refresher training at least every three years to assure that the employee understands and adheres to the current operating procedures as required by 40 CFR § 68.71(b); and

It has periodically evaluated the performance of its contractors in fulfilling their obligations under 40 CFR § 68.87(c)(1) – (5), as required by 40 CFR § 68.87(b)(5).

SETTLEMENT

In consideration of Respondent's size, its full compliance history, its good faith effort 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 violation cited above, for the total penalty amount of **\$4500**.

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 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 violation listed in this ESA. Respondent shall pay a civil penalty of **\$4500**. **Please note that payment should not be made until after Respondent receives a copy of the fully executed ESA**. Within fifteen (15) days of receiving a copy of the fully executed ESA, the Respondent shall send a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$4500**, in payment of the full penalty amount to one of the following addresses:

For payment sent via U.S. Postal Service
U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000; or

For payment sent via overnight mail service (FedEx, UPS)
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

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:

Saundi Wilson
U. S. EPA Region 4
Office of Environmental Accountability
61 Forsyth Street
Atlanta, Georgia 30303, and

Victor L. Weeks
U. S. EPA Region 4
EPCRA Enforcement Section
61 Forsyth Street
Atlanta, Georgia 30303

Upon Respondent's correction of alleged violations and payment of the penalty, EPA will take no further civil action against Respondent for the alleged violation of the Act referenced in this ESA. EPA does not waive any other enforcement action for any other violations of the Act or any other statute.

The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Caron B. Falconer
U. S. EPA - Region 4
61 Forsyth St., S. W.
Atlanta, Georgia 30303
(404) 562-8451

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

E Allen

Date: 06/28/11

Name (print): EOOIE ALLEN

Title (print): SENIOR OPERATIONS MANAGER - BHAM
Barber Ice Cream Company

FOR COMPLAINANT:

Douglas Neely for

Date: 6/7/11

Beverly H. Banister
Director
Air, Pesticides & Toxics
Management Division
Region 4

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

Susan B. Schub

Date: 8/2/11

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 Expedited Settlement Agreement, in the matter of Barber Ice Cream Company, CAA-04-2011-8013(b), on the parties listed below in the manner indicated:

Caron B. Falconer
U. S. EPA - Region 4
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, GA 30303

(Via EPA's internal mail)

Ellen Rouch
U. S. EPA - Region 4
Office of Environmental Accountability
61 Forsyth Street
Atlanta, GA 30303

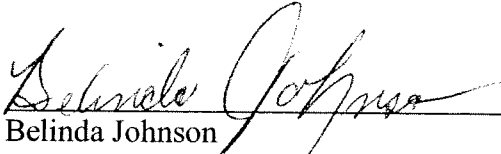
(Via EPA's internal mail)

Mr. Eddie Allen
Senior Operations Manager
Barber Ice Cream Company
126 Barber Court
Birmingham, Alabama 35209

(Via Certified Mail -
Return Receipt Requested)

Date: _____

MAY 04 2011



Belinda Johnson
Acting Regional Hearing Clerk
United States Environmental Protection Agency
Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303
404-562-9686

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 7/28/11
(Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9504
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required:
Sent with bill

Other Receivable

Not sent with bill

This is an original debt

Oversight Billing - Cost Package not required

This is a modification

PAYEE: Barber Ice Cream Company
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 4500
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA 04/2011 2013(6)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|------------------------------|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD) |
| | 3. Designated Program Office |

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |