



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR - 3 2020

REPLY TO THE ATTENTION OF

Mr. Kevin Deckard
General Manager
Atlas Chem Milling
1627 West Lusher Avenue
Elkhart, Indiana 46517

Re: Expedited Settlement Agreement and Final Order
Atlas Chem Milling
Docket No: **RCRA-05-2020-0009**

Dear Mr. Deckard:

Attached please find a copy of the signed, fully-executed Expedited Settlement Agreement and Final Order in resolution of the above case. The original was filed with the Regional Hearing Clerk on

March 3, 2020.

Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your payment and for your cooperation in resolving this matter.

If you have any questions or concerns regarding this matter, please contact Jamie L. Paulin, of my staff, at 312-886-1771.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Kuefler".

Patrick F. Kuefler
Acting Chief
Land & Chemicals Enforcement and
Compliance Assurance Branch

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)
)
Atlas Chem Milling)
1627 West Lusher Avenue)
Elkhart, Indiana)
)
U.S. EPA ID: IND 092 043 595)
)
Respondent.)

Docket No. RCRA-05-2020-0009
**RCRA Expedited Settlement Agreement
and Final Order**



Expedited Settlement Agreement and Final Order

1. On or about September 3, 2018, the U.S. Environmental Protection Agency Region 5 (EPA) conducted an inspection at the Atlas Chem-Milling (Atlas Chem) facility to determine compliance with the Solid Waste Disposal Act, 42 U.S.C. § 9601 *et seq.* as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), and the Hazardous and Solid Waste Amendments of 1984 (HSWA). EPA finds that Atlas Chem (Respondent) violated specific requirements applicable to generators of hazardous waste in violation of 329 IAC § 3.1-7-1 [40 CFR § 262.34(a)(2)]; 329 IAC §§ 3.1-7-1 and 3.1-10-1 [40 CFR §§ 262.34(a)(1) and 265.174]; 329 IAC § 3.1-7-1 and 3.1-10-1 [40 CFR § 262.34(a)(4) and 265.16(c)]; 329 IAC § 3.1-10-1 [40 CFR § 262.34(a)(1)(ii) and 265.195]; 329 IAC § 3.1-7-1 [40 CFR § 262.42]; and 329 IAC § 3.1-16-2 [40 CFR 273.15(c), as noted on the attached FINDINGS and ALLEGED VIOLATIONS FORM (Form) which is hereby incorporated by reference.
2. EPA is authorized to enter into this Expedited Settlement Agreement and Final Order (ESA) under the authority vested in the Administrator of EPA by Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
3. The parties enter into this ESA in order to settle the civil violations described in the Form.

This Settlement is Subject to the Following Terms and Conditions

4. For purposes of this proceeding, Respondent admits it is subject to the requirements set forth in 329 Ind. Admin. Code 3.1-7-1 [40 CFR § 262.34(a)-(c)] and that EPA has jurisdiction pursuant to RCRA over the Respondent and the Respondent's conduct as described in the Form.

5. Respondent neither admits nor denies the factual allegations in the Form.

6. Respondent agrees to pay a civil settlement penalty, as set forth below.

7. Respondent shall prepare a written Certification of Compliance (subject to civil and criminal penalties for making a false submission to the United States Government), describing how it has corrected the violations identified in the Form and the corrective actions Respondent has taken or will take to prevent future violations of RCRA. This certification shall be mailed within thirty (30) days of the effective date of this Expedited Settlement to Ms. Jamie Paulin (ECR-17J), Land and Chemicals Enforcement and Compliance Assurance Branch, U.S. EPA, Region 5, 77 West Jackson Blvd, Chicago, Illinois 60604, and is subject to approval by EPA.

8. In addition, within thirty (30) days of the effective date of this ESA, Respondent shall send a certified check in the amount of \$6,000 payable to the "Treasurer of the United States" to the United States Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, Missouri 63197-9000. Respondent shall write "EPA," and the docket number of this case on the check. A copy of the check shall be mailed to the Regional Hearing Clerk, (Mailcode E-13J), U.S. EPA, Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604.

9. Respondent consents to the assessment of this penalty and the requirement to submit a Certification of Compliance.

10. Upon receipt by EPA of the penalty payment and EPA approval of Respondent's

Certification of Compliance, EPA will take no further civil action against the Respondent for the specific violations of 329 IAC § 3.1-7-1 [40 CFR § 262.34(a)(2)]; 329 IAC §§ 3.1-7-1 and 3.1-10-1 [40 CFR §§ 262.34(a)(1) and 265.174]; 329 IAC § 3.1-7-1 and 3.1-10-1 [40 CFR § 262.34(a)(4) and 265.16(c)]; 329 IAC § 3.1-10-1 [40 CFR § 262.34(a)(1)(ii) and 265.195]; 329 IAC § 3.1-7-1 [40 CFR § 262.42]; and 329 IAC § 3.1-16-2 [40 CFR 273.15(c), described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations of RCRA by the Respondent of this ESA, or of any other federal or state statute or regulation.

11. By signing this ESA, Respondent waives the opportunity for a hearing and/or appeal pursuant to Section 3008 of RCRA and consents to EPA's approval of the ESA without further notice.

12. This ESA is binding on the parties signing below, and effective upon the Regional Judicial Officer's signature. If Respondent does not sign and return this ESA as directed by EPA, the proposed ESA is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Form.

13. Each party shall bear its own costs and fees, if any.

14. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. 22.31(b), is effective upon filing.

15. The parties consent to service of this Agreement by e-mail at the following valid e-mail addresses: Andre Daugavietis (daugavietis.andre@epa.gov) and Kevin Deckard (kdeckard@atlasdie.com).

Expedited Settlement Agreement and Final Order

APPROVED BY EPA:

Sara Bruneman

2-27-20

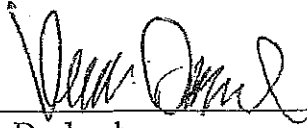
for

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Date

**In the Matter of: Atlas Chem Milling
Expedited Settlement Agreement and Final Order**

APPROVED BY RESPONDENT:



Kevin Deckard
General Manager
Atlas Chem Milling
1627 West Lusher Avenue
Elkhart, Indiana 46517

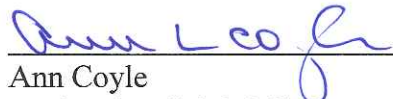
2/13/2020
Date

Expedited Settlement Agreement and Final Order

In the Matter of: RCRA-05-2020-0009

This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Expedited Settlement Agreement and Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31

IT IS SO ORDERED:



Ann Coyle
Regional Judicial Officer

3/3/2020

Date

Attachment A

FINDINGS AND ALLEGED VIOLATIONS FORM**Atlas Chem-Milling****Violations discovered during the September 13, 2018 Compliance Evaluation Inspection**

	NATURE OF VIOLATION	CITATION OF REGULATION OR LAW
Count 1	Failure to mark one cubic yard container storing hazardous waste and one tank storing hazardous waste with the date of accumulation.	329 IAC § 3.1-7-1 [40 CFR § 262.34(a)(2)]
Count 2	Failure to conduct weekly inspections of the hazardous waste storage area.	329 IAC §§ 3.1-7-1 and 3.1-10-1 [40 CFR §§ 262.34(a)(1) and 265.174]
Count 3	Failure to conduct an annual review of the initial training required.	329 IAC §§ 3.1-7-1 and 3.1-10-1 [40 CFR §§ 262.34(a)(4) and 265.16(c)]
Count 4	Failure to conduct daily documented inspections of the hazardous waste storage tank. Failure to inspect daily data gathered from the monitoring and leak detection equipment to ensure that the tank system was being operated according to its design.	329 IAC §§ 3.1-10-1 [40 CFR §§ 262.34(a)(1)(ii); 265.195]
Count 5	Failure to submit an exception report to the EPA Regional Administrator.	329 IAC 3.1-7-1 [40 C.F.R. § 262.42]
Count 6	Failure to demonstrate the length of time that the universal waste had been accumulated from the date it became a waste or was received.	329 IAC 3.1-16-2 [40 C.F.R. § 273.15(c)]

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 SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

Expedited Settlement Agreement and Final Order
In the matter of: Atlas Chem Milling
Docket Number: RCRA-05-2020-0009

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement and Final Order**, docket number **RCRA-05-2020-0009**, which was filed on *3/3/2020*, in the following manner to the following addressees:

Copy by e-mail to
Respondent:

Atlas Chem Milling
Kevin Deckard
General Manager
kdeckard@atlasdie.com

Copy by e-mail to
Attorney for Complainant:

Andre Daugavietis
daugavietis.andre@epa.gov

Copy by e-mail to
Technical Contact for
Complainant:

Jamie Paulin
paulin.jamie@epa.gov

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: March 3, 2020


LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5