



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JAN 06 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. William G. Cronin
Plant Manager
Tennessee Valley Authority
Widows Creek Fossil Plant
2800 Steam Plant Road
Stevenson, Alabama 35772

SUBJECT: Consent Agreement and Final Order
Tennessee Valley Authority
Docket No. CAA-04-2009-1501(b)

Dear Mr. Cronin:

Enclosed please find an executed copy of the Consent Agreement and Final Order (CAFO) that resolves the Clean Air Act (CAA) matter (Docket No. CAA-04-2009-1501(b)) involving Tennessee Valley Authority. The CAFO was filed with the Regional Hearing Clerk, as required by 40 C.F.R. Part 22 and became effective on today's date.

As required by the CAFO, within thirty days of receipt of this letter, a cashier's check or certified check in the amount of \$7,700, made out to the "Treasurer, United States of America," should be submitted 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
Contact: Natalie Pearson @ 314-418-4087

Internet Address (URL) • <http://www.epa.gov>

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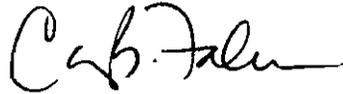
The Docket No. should be included on the check. Also, a separate copy of the check and a written statement that payment has been made in accordance with this CAFO should be sent to the following individuals:

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

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

If you have any questions, please call Victor Weeks at (404) 562-9189.

Sincerely,



Caron B. Falconer
Chief, EPCRA Enforcement Section

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)
)
Tennessee Valley Authority)
)
Respondent.)
_____)

Docket Number: CAA-04-2009-1301(b)

RECEIVED
EPA REGION IV
2009 JAN - 6
PH 3:56
RECORDS CLERK

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation/Termination or Suspension of Permits (Consolidated Rules), published in 40 CFR Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Tennessee Valley Authority (hereinafter, "Respondent").

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 CFR § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The authority to take action under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under the CAA to the Regional Administrators by EPA Delegation 7-6-A, last updated on August 4, 1994. The Regional Administrator, Region 4, has re-delegated this authority to the Director, Air, Pesticides and Toxics Management Division. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

4. Respondent, Tennessee Valley Authority, is a federal agency and instrumentality of the United States, 16 U.S.C. 831 *et seq*, doing business in the State of Alabama.

5. Respondent is a "person" within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and is therefore subject to the provisions of the CAA and regulations promulgated thereunder.

6. Respondent operates a “stationary source” as that term is defined by Section 302(z) of the CAA, 42 U.S.C. § 7602(z). The Respondent’s stationary source, the Widows Creek Fossil Plant, is located at County Road 96, Stevenson, Alabama.

7. Section 112(r) of the CAA, 42 U.S.C. § 7412(r), addresses the prevention of releases of substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). The purpose of this section is to prevent the accidental release of extremely hazardous substances and to minimize the consequences of such releases. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), EPA is authorized to promulgate regulations for accidental release prevention.

8. Pursuant to Section 112(r)(3) and 112(r)(7) of the CAA, 42 U.S.C. §§ 7412(r)(3) and 7412(r)(7), EPA promulgated rules codified at 40 CFR Part 68, Chemical Accident Prevention Provisions. These regulations are collectively referred to as the “Risk Management Program” (RMProgram) and apply to an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process. Pursuant to Sections 112(r)(3) and 112(r)(5) of the CAA, 42 U.S.C. §§ 7412(r)(3) and 7412(r)(5), the list of regulated substances and threshold levels are codified at 40 CFR § 68.130.

9. The Respondent, at its stationary source identified in Paragraph 6 of this CAFO, has a RMProgram covered process which stores or otherwise uses a regulated substance in quantities exceeding the applicable RMProgram threshold (10,000 pounds for anhydrous ammonia).

10. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and 40 CFR §§ 68.12 and 68.150, the owner or operator of a stationary source that has 10,000 pounds or more of anhydrous ammonia in a “process” as defined in 40 CFR § 68.3, must develop an RMProgram accidental release prevention program, and submit and register a single Risk Management Plan (RMPlan) to EPA.

11. Respondent has submitted and registered an RMPlan to EPA for the stationary source identified in Paragraph 6 of this CAFO. Respondent has developed an RMProgram accidental release prevention program for the stationary source identified in Paragraph 6 of this CAFO.

12. EPA alleges that the Respondent violated the codified rules governing the CAA Chemical Accident Prevention Provisions, because Respondent did not adequately implement provisions of 40 C.F.R. Part 68 when:

Respondent failed to review, update and submit an RMPlan on or before its applicable due date as required by the RMProgram regulations promulgated at 40 C.F.R. § 68.190(b)(1) under Section 112(r) of the Act. The Widows Creek Fossil Plant’s RMPlan was due for an updated submission on April 15, 2008. As of September 30, 2008, Respondent had not updated the RMPlan for the Plant.

III. Consent Agreement

13. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

14. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.

15. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

16. Respondent certifies that as of the date of execution of this CAFO, to the best of the Respondent's knowledge, it is compliant with the applicable requirements of Section 112(r) of the CAA.

17. Compliance with the CAFO shall resolve the allegation of violation contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States other than as expressed herein. Neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

18. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the RMProgram.

IV. Final Order

19. Respondent shall pay a civil penalty of SEVEN THOUSAND AND SEVEN HUNDRED (\$7,700). Payment is to be paid within thirty (30) days of the effective date of this CAFO.

20. Respondent shall pay the penalty by forwarding a cashier's or certified check payable to the "Treasurer, United States of America," 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; Contact: Natalie Pearson, 314-418-4087

The check shall reference on its face the name and the Docket Number of the CAFO.

21. 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 CAFO, to the following persons at the following addresses:

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

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

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

22. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of the CAFO if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge up to six percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

23. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

24. This CAFO shall be binding upon the Respondent, its successors, and assigns.

26. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

V. Effective Date

27. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

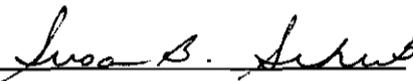
Tennessee Valley Authority

By:  Date: 12/16/08
Name: J.R. STEEL
FOR WA & CEONIN (Typed or Printed)
Title: PLANT MANAGER (Typed or Printed)
TVA WIDOWS CREEK FOSSIL PLANT

U.S. Environmental Protection Agency

By:  Date: 11/20/2008
Beverly H. Banister, Director
Air, Pesticides & Toxics
Management Division
Region 4

APPROVED AND SO ORDERED this 6th day of January, 2009.


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 Consent Agreement and Final Order, in the matter of Tennessee Valley Authority, CAA-04-2009-1501(b), on the parties listed below in the manner indicated:

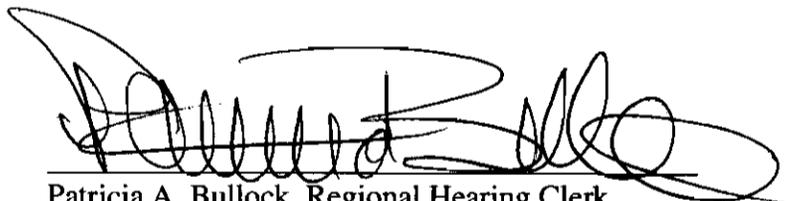
Caron B. Falconer (Via EPA's internal mail)
U. S. EPA - Region 4
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, GA 30303

Elizabeth O'Sullivan (Via EPA's internal mail)
U. S. EPA - Region 4
Office of Environmental Accountability
61 Forsyth Street
Atlanta, GA 30303

Mr. William G. Cronin (Via Certified Mail -
Plant Manager Return Receipt Requested)
Tennessee Valley Authority
Widows Creek Fossil Plant
2800 Steam Plant Road
Stevenson, Alabama 35772

Date:

1-6-09



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental Protection Agency
Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303
404-562-9511

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 1/2/09 (Name) (Date)

in the Region 4, ORC, OEA (Office) at (404) 562-9904 (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: Tennessee Valley Authority/Widow's Creek (Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 7,700 (If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA of 2009 1501 (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
2. Regional Hearing Clerk
3. Designated Program Office
4. Regional Counsel (EAD)