



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

NOV 18 2014

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. David Denard  
Director of Environmental Services  
Jefferson County Environmental Services Department  
Village Creek Waste Water Treatment Plant  
716 Richard Arrington Boulevard North  
Birmingham, Alabama 35203

Re: Jefferson County  
Consent Agreement and Final Order  
CAA-04-2014-1517(b)

Dear Mr. Denard:

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-04-2014-1517(b)) involving Jefferson County. The CAFO was filed with the Regional Hearing Clerk, as required by 40 CFR Part 22 and became effective on the date of the filing.

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 Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the U.S. Environmental Protection Agency. If you have any questions with regard to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the SEC Notice.

If you have any questions, please call Mr. Karl Wilson at (404) 562-9295.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Bookman".

Robert Bookman  
Acting Chief  
EPCRA Enforcement Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF:

Jefferson County

Respondent

)  
)  
) Docket Number: CAA-04-2014-517(5)  
)  
)

HEARING CLERK

2014 NOV 18 3:18 PM

RECEIVED  
EPA REGION IV

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. Respondent is the Jefferson County (hereinafter, "Respondent").

2. The authority to take action under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under the CAA to the Regional Administrators by the 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. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 22.18, and agree 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. Respondent does business in the State of Alabama.

4. 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 there under.

5. 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 is located at 1440 Pleasant Hill Road, Birmingham, Alabama, (Village Creek Waste Water Treatment Plant).

6. 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), the EPA is authorized to promulgate regulations for accidental release prevention.

7. Pursuant to Section 112(r)(3) and 112(r)(7) of the CAA, 42 U.S.C. §§ 7412(r)(3) and 7412(r)(7), the 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.

8. The Respondent, at its stationary source identified in Paragraph 5 of this CAFO, has two water treatment RMProgram covered processes which store or otherwise use chlorine in amounts exceeding the applicable threshold of 2,500 pounds, and sulfur dioxide in amounts exceeding the applicable threshold of 5,000 pounds.

9. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and 40 CFR §§ 68.10 and 68.150, the owner or operator of a stationary source that has a regulated substance in an amount equal to or in excess of the applicable RMProgram threshold 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 the EPA.

10. Respondent has submitted and registered an RMPlan to the EPA for the stationary source identified in Paragraph 5 of this CAFO. Respondent has developed an RMProgram accidental release prevention program for the stationary source identified in Paragraph 5 of this CAFO.

11. Based on an RMProgram compliance monitoring investigation initiated on February 15, 2013, the 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 CFR Part 68 when it:

Failed to document the maximum intended inventory of equipment in which the regulated substances are stored or processed as required by 40 CFR § 68.48(a)(2);

Failed to update information if a major change has occurred that made the information inaccurate as required by 40 CFR § 68.48(c);

Failed to update the hazard review at least once every five years or whenever a major change in the chlorine process occurred as required by 40 CFR § 68.50(d);

Failed to update the hazard review at least once every five years or whenever a major change in the sulfur dioxide process occurred as required by 40 CFR § 68.50(d);

Failed to address in the operating procedures, consequences of deviations and steps required to correct or avoid deviations as required by 40 CFR § 68.52(b);

Failed to certify that each employee presently operating a process, and each newly assigned employee to a covered process has been trained or tested competent in operating procedures provided in 40 CFR § 68.52 that pertain to their duties as required by 40 CFR § 68.54(a);

Failed to train or caused to be trained each employee, involved in maintaining the on-going mechanical integrity of the process, in the hazards of the process, in how to avoid or correct unsafe conditions, and in the procedures applicable to the employee's job tasks as required by 40 CFR § 68.56(b);

Failed to provide documentation that every maintenance contractor ensured that each maintenance employee was trained to perform the maintenance procedures developed as required by 40 CFR § 68.56(c);

Failed to certify that compliance audits were conducted at least every three years to verify that procedures and practices were adequate and are being followed as required by 40 CFR § 68.58(a);

Failed to develop a report of the compliance audit's findings as required by 40 CFR § 68.58(c);

Failed to include in the single registration form, for each covered process, the maximum quantity of each regulated substance in the process as required by 40 CFR § 68.106(b)(7).

### III. Consent Agreement

12. 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.
13. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.
14. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.
15. Respondent agrees to complete the Supplemental Environmental Project (SEP) 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 after a good faith inquiry, it is compliant with the applicable

requirements of Section 112(r) of the CAA.

17. Compliance with the CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States other than as expressed herein. Neither the 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 agrees to pay a civil penalty of TWELVE THOUSAND NINE HUNDRED FIFTY DOLLARS (\$12,950), 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 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

Cincinnati Finance Center

PO Box 979077

St. Louis, MO 63197-9000; or

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

U.S. Environmental Protection Agency

Cincinnati Finance Center

1005 Convention Plaza

Mail Station SL-MO-C2GL

St. Louis, MO 63101

Contact: Natalie Pearson @ 314-425-1818.

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, S.W.  
Atlanta, Georgia 30303

Karl Wilson  
EPCRA Enforcement Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

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

22. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such penalty payment shall constitute a violation of this CAFO.

**V. Supplemental Environmental Project**

23. Respondent shall undertake and complete the following Emergency Planning and Preparedness project within 45 days of the effective date of this CAFO. Respondent shall expend no less than **FIFTY THREE THOUSAND EIGHT HUNDRED EIGHTY DOLLARS (\$53,880)** for the purchase of the following equipment for donation to Jefferson County Emergency Management Agency:

<u>Quantity</u>	<u>Description</u>
2	1660 Connector Boat with navigation lights, bilge pump, "TUFFLOOR" liner, 2 SeaTool boxes and 4 FLOATropes (with mounted Jefferson County Emergency Management Agency decal and amber/yellow light)
1	Double Transport Trailer with Winch
2	White Vinyl 3 Bow Bimini Top Storage Boot
3	Code 3 Lights
2	Command Console with mounted seat, steering and engine controls
2	Anodized aluminum dive/rescue platform
2	Dual battery configuration with switch
2	Aluminum light bar mount, 20 lb capacity, hinged
2	40 hp Mercury stroke EFI

In the event that Respondent's actual purchase of equipment deviates from the quantities specified above, Respondent shall provide information to EPA explaining the reason(s) for any such deviation. So long as the amount that Respondent spends equals or exceeds \$53,880, and the explanation for the deviation is acceptable to EPA, this provision shall be deemed to be satisfied. This Consent Agreement and Final Order shall not be construed to constitute EPA endorsement of the equipment or technology to be purchased by Respondent in connection with the SEP undertaken pursuant to this Agreement.

24. Respondent certifies that neither it, nor, to the best of its knowledge, the recipient of the Emergency Planning and Preparedness SEP, is a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee, or other mechanism for providing federal financial assistance whose financial performance period has not yet expired.

25. Respondent has obtained and presented to EPA a separate written Certification from the recipient of the SEP, the Jefferson County Emergency Management Agency, that it is not a party to any open federal financial assistance transaction as stated in Paragraph 24.

26. Respondent agrees that in order to receive credit for the SEP, it must fully and timely complete the SEP project in accordance with Paragraph 23.

27. If Respondent fails to timely and fully complete any part of the SEP, including failure to spend the minimum amount of FIFTY THREE THOUSAND EIGHT HUNDRED EIGHTY DOLLARS (\$53,880), Respondent shall pay to the United States a stipulated penalty of the difference between \$53,880 and the actual SEP expenditure.

28. For purposes of Paragraph 23, whether Respondent has fully and timely completed the SEP shall be in the sole discretion of EPA.

29. Respondent certifies that, as of the date this CAFO is signed, it is not required to perform any part of the SEP by any federal, state or local law, regulation, permit or order, or by any agreement or grant. Respondent further certifies that, as of this date, it has not received and is not negotiating to receive, credit for any part of the SEP in any other enforcement action of any kind.

30. Any public statement, oral or written, by Respondent making any reference to the SEP shall include the following language:

“This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental protection Agency for violations of Section 112(r)(7) of the Clean Air Act (CAA).”

31. No later than sixty (60) calendar days after the effective date of this CAFO, Respondent shall submit to EPA a SEP Completion Report. The Report shall be sent to the EPCRA Enforcement Section, to the attention of Karl Wilson at the address provided above. The Report shall include the following:

- (a) an affidavit from an authorized company official, attesting that the SEP has been completed or explaining in detail any failure to complete it; and
- (b) copies of appropriate documentation, including invoice and receipts, showing a total expenditure of no less than \$53,880, was spent on the Emergency Planning and Preparedness SEP described in Paragraph 23; and
- (c) documentation proving that the equipment was donated to and received by the Jefferson County Emergency Management Agency.

Respondent shall send EPA any additional documentation requested by EPA.

32. If Respondent fails to timely submit a SEP Completion Report as required by this CAFO, Respondent shall pay to the United States a stipulated penalty of \$100 for each calendar day that the report is late.

33. Respondent shall pay any stipulated penalties that accrue under this CAFO within 15 calendar days of the receipt by Respondent of written demand from EPA for such penalties. Such penalties shall be paid in accordance with the procedures set forth above for the payment of the civil penalty.

34. For Federal Income Tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

35. 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 effective date of this 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 will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

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

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



38. The following individual is authorized to receive service for EPA in this proceeding:

Mark J. Fite  
U.S. EPA, Region 4  
Air, Pesticides & Toxic Management Division  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-8451

39. 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.

**THIS SECTION INTENTIONALLY LEFT BLANK**

Effective Date

40. 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:

Jefferson County

By:  Date: 9-15-14

Name: W.D. Carrington (Typed or Printed)

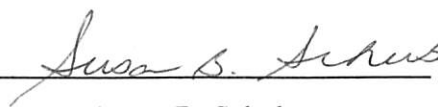
Title: President, Jefferson County Commission (Typed or Printed)

U.S. Environmental Protection Agency

By:  Date: 10-27-14

Beverly H. Banister  
Director  
Air, Pesticides and Toxics Management Division

APPROVED AND SO ORDERED this 18 day of November, 2014.



Susan B. Schub  
Regional Judicial Officer

CERTIFICATE OF SERVICE

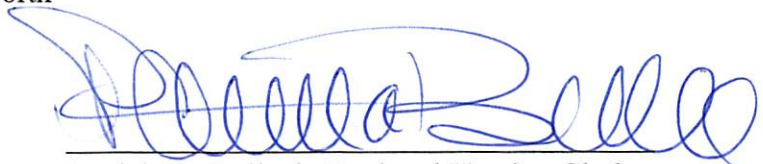
I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of, Jefferson County, Docket Number: CAA- 04-2014-1517(b), on the parties listed below in the manner indicated:

Mark J. Fite (Via EPA's internal mail)  
U.S. EPA, Region 4  
61 Forsyth Street  
Atlanta, GA 30303

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

Mr. David Denard (Certified Mail—Return Receipt Requested)  
Director of Environmental Services  
Jefferson County Environmental Services Department  
Village Creek Waste Water Treatment Plant  
716 Richard Arrington, Jr. Boulevard North  
Birmingham, Alabama 35203

Date: 11-18-14



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9511