

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

IN THE MATTER OF

White House Utility District
317 Rockland Road
Hendersonville, Tennessee 37075

Respondent

**CWA SECTION 311 CLASS I
CONSENT AGREEMENT
AND FINAL ORDER
UNDER 40 C.F.R. § 22.13(b)**

Docket No. **CWA-04-2009-5146(b)**

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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 ("Act"), 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 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"), pursuant to Clean Water Act delegation 2-51.

CONSENT AGREEMENT

Stipulations

The parties, in their own capacity or by their attorneys or other authorized representatives, hereby stipulate:

1. Respondent, White House Utility District, is a municipal corporation, duly organized and existing under the laws of Tennessee. The Respondent is a person within the meaning of Sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5).

2. The Respondent is the owner within the meaning of Section 311(a)(6) of the Act, 33 U.S.C. § 1321(a)(6), of a chemical storage facility located in Hendersonville, Tennessee ("Facility").

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

4. The unnamed tributary adjacent to the Respondent's facility which flows into the Cumberland River is a navigable water as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and is subject to the jurisdiction of Section 311 of the Act, 33 U.S.C. § 1321.

5. Section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3), prohibits the discharge of hazardous substances into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.

6. For purposes of Section 311(b)(3) of the Act, 33 U.S.C. §§ 1321(b)(3), discharges of hazardous substances into or upon the navigable waters of the United States in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States are discharges of hazardous substances identified in 40 C.F.R. Part 116 in excess of the corresponding reportable quantities listed in 40 C.F.R. Part 117.

7. Respondent admits the jurisdictional statements contained herein.

Allegations

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

8. On August 17, 2008, a CSX train leaped the tracks and crashed into Respondent's chemical storage facility where Respondent stored chemicals used in the treatment of water. Respondent did not cause or contribute to the derailment, nor could it have prevented the derailment.

9. As a result of the crash, the following hazardous substances, as defined in Section 311(a)(14) of the Act, 33 U.S.C. § 1321(a)(14), were discharged in the quantities noted below from Respondent's Facility into an unnamed tributary that empties into the Cumberland River.

Chemical/Specific Gravity	Amnt. released	Reportable Quantity	Reportable Quantities Released
Aluminum sulfate/1.33	15,000 gallons (159,600 lbs)	5,000 lbs	32
Sodium bisulfite/1.3	2,000 gallons (20,800 lbs.)	5000 lbs	4
Sodium hypochlorite/1.2	500 gallons (4,800 lbs)	100 lbs	48
Total			84 Total Reportable Quantities

10. The August 17, 2008, discharge of hazardous substances from Respondent's Facility, into an unnamed tributary which flows to the Cumberland River is in a quantity that has been determined to be harmful under 40 C.F.R. Part 117, thereby resulting in a violation of Section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3).

Waiver of Rights

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

12. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this Consent Agreement or the Final Order.

Penalty

13. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of \$10,500.

Payment Terms

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

14. No later than 30 days after the effective date of the Final Order, the Respondent shall pay the amount of \$10,500 by means of a cashier's or certified check or by electronic funds transfer (EFT). If paying by check, the Respondent shall submit a cashier's or certified check payable to "Environmental Protection Agency," and bearing the notation "OSLTF - 311." If the Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197

If paying by EFT, the Respondent shall transfer \$10,500 to www.pay.gov. Enter SFO1.1 in to the “searchable public forums” field. Open the forum and enter the requested information. If paying by wire transfer, payment shall be addressed to the following:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
33 Liberty St.
New York, New York 10045

Field tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency.” In the case of an international transfer of funds, the Respondent shall use SWIFT address FRNYUS33.

15. If paying by check, the Respondent shall note on the penalty payment check the title and docket number of this case. The Respondent shall submit copies of the check (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following people:

Patricia Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 4
SNAFC
61 Forsyth Street, SW
Atlanta, Georgia 30303

and

Doug McCurry, Chief
North Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. Environmental Protection Agency
Region 4
SNAFC
61 Forsyth Street, SW
Atlanta, Georgia 30303

16. Respondent's failure to pay the penalty assessed by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the Act, 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

General Provisions

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

18. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 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. Payment of the penalty pursuant to this Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein.

19. The undersigned representative of Respondent hereby certifies that he/she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind Respondent to this Consent Agreement.

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

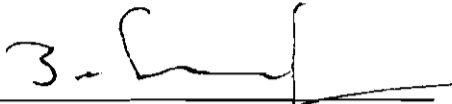
Susan Capel
Associate Regional Counsel
U.S. EPA – Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
404-562-9566
Capel.susan@epa.gov

Effective Date

21. This Consent Agreement and attached Final Order is effective upon the filing of the Final Order with the Regional Hearing Clerk.

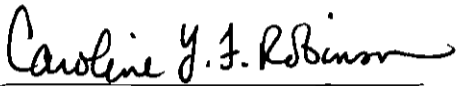
RESPONDENT

Date: 8-24-09


Bill Thompson, General Manager
White House Utility District

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 11/13/09


Caroline Y. F. Robinson, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

IN THE MATTER OF

White House Utility District
317 Rockland Road
Hendersonville, TN 37075

Respondent

**CWA SECTION 311 CLASS I
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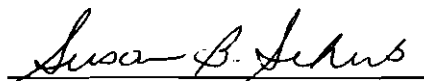
Docket No. CWA-04-2009-5146(b)

FINAL ORDER

Pursuant to Section 311(b)(6) of the Clean Water Act, 33 U.S.C. § 1321(b)(6), and the delegated authority of the undersigned, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," codified at 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order, and the Stipulations by the parties and Allegations by the Complainant are adopted as Findings in this Final Order.

The Respondent is ordered to comply with the terms of the Consent Agreement.

Date: Nov. 19, 2009


Susan 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 White House Utility District, Docket No. CWA-04-2009-5146(b), on the parties listed below in the manner indicated:

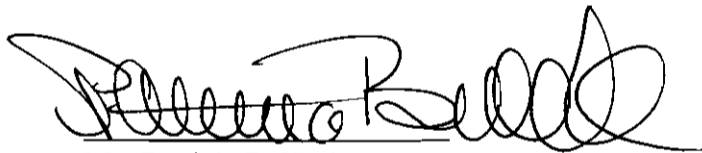
Susan Capel (Via EPA's internal mail)
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303

Brian Gross (Via EPA's internal mail)
RCRA & OPA Enforcement and
Compliance Branch
U.S. EPA, Region 4
61 Forsyth St., S.W.
Atlanta, Georgia 30303

Bill Thompson (Via Certified Mail)
General Manager
White House Utility District
P.O. Box 608
3303 Highway 31 West
White House, Tennessee 37188

Gregory T. Young (Via Certified Mail)
Bass, Berry & Sims, PLC
315 Deaderick Street, Suite 2700
Nashville, Tennessee 3728-3001

Dated this 19 day of November, 2009.



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