



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

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

JAN 26 2010

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ms. Colleen Donofrio  
Environmental, Energy and Natural Resources' Services Group  
Babst Calland Clements & Zomnir, P.C.  
380-A Tylers Mill Road  
Sewell, New Jersey 08080

SUBJECT: Calgon Carbon Corporation  
Consent Agreement and Final Order  
Docket No. CERCLA-04-2010-2014(b)

Dear Ms. Donofrio:

Enclosed please find an executed copy of the Consent Agreement and Final Order (CAFO) that resolves the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) matter (Docket No. CERCLA-04-2010-2014(b)) involving Calgon Carbon Corporation. 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 Security and Exchange Commission (SEC) any environmental enforcement actions taken by the Environmental Protection Agency (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 have any questions, please call Ms. Deanne Grant at (404) 562-9291.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol B. Falconer".

Carol B. Falconer  
Chief, EPCRA Enforcement Section

Enclosures

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

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF )  
 )  
Calgon Carbon Corporation )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket Number: CERCLA-04-2010-2014(b)

RECEIVED  
EPA REGION 4  
2010 JUN 25 AM 7:18  
HEATHER O'NEILL

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609 and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Calgon Carbon Corporation.

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18(b) 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 C.F.R. § 22.13(b) and 22.18(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 109 of CERCLA, 42 U.S.C. § 9609 is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under CERCLA to the Regional Administrators by EPA Delegation I4-31 dated May 11, 1994. The Regional Administrator, Region 4, has redelegated to the Director, Air, Pesticides and Toxics Management Division, the authority under CERCLA by EPA Region 4 Delegation 14-31 dated March 8, 1999, and updated August 6, 2004. Pursuant to these delegations, 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, Calgon Carbon Corporation, does business in the Commonwealth of Kentucky.

5. Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
6. Respondent has a "facility" as that term is defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
7. Respondent's facility is located at 15024 Highway 23, Catlettsburg, Kentucky 41299.
8. Respondent is an "owner or operator" of the facility as that term is defined by Section 101 (20)(A) of CERCLA, 42 U.S.C. § 9601(20)(A).
9. Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), required the Administrator of EPA to publish a list of substances designated as hazardous substances which, when released into the environment, may present substantial danger to public health or welfare or the environment and to promulgate regulations establishing the quantity of any hazardous substance the release of which was required to be reported under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a). EPA has published and amended such a list, including the corresponding reportable quantities (RQ) for those substances. This list initially published on April 4, 1985 (50 Fed. Reg. 13474) and with later amendments, is codified at 40 C.F.R. Part 302.
10. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and the regulations found at 40 C.F.R. § 302.6, require a person in charge of a facility or vessel, as soon as he or she has knowledge of a release of a hazardous substance from such facility or vessel in an amount equal to, or greater than the reportable quantity (RQ), to immediately notify the National Response Center (NRC).
11. Respondent was in charge of the facility during the relevant periods described below.
12. Sodium hypochlorite is a "hazardous substance" as that term is defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), with an RQ of 100 pounds, as specified in 40 C.F.R. § 302.4.
13. On September 19, 2007, Respondent had a release of sodium hypochlorite above the RQ at the facility.
14. EPA alleges that Respondent violated the notification requirements of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), by failing to immediately notify the NRC as soon as Respondent had knowledge of the release of sodium hypochlorite in an amount equal to or greater than its RQ at Respondent's facility and is therefore subject to the assessment of penalties under Section 109 of CERCLA, 42 U.S.C. § 9609.

15. Spent carbon often contains hazardous wastes listed under the Resource Conservation and Recovery Act (RCRA) that are also "hazardous substances" as that term is defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14). These listed RCRA hazardous wastes have varying RQs, as specified in 40 C.F.R. § 302.4.

16. On July 14, 2008, Respondent had a release of spent carbon that exceeded the RQ of ten (10) pounds for at least one of the hazardous waste constituents contained in the spent carbon being stored at the facility.

17. EPA alleges that Respondent violated the notification requirements of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), by failing to immediately notify the NRC as soon as Respondent had knowledge that the release of spent carbon was in an amount equal to or greater than the RQ for one of the RCRA hazardous waste constituents of the spent carbon at Respondent's facility, and is, therefore, subject to the assessment of penalties under Section 109 of CERCLA, 42 U.S.C. § 9609.

18. Pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609, and 40 C.F.R. Part 19, EPA may assess a penalty not to exceed \$32,500 for each violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), that occurred on or after March 15, 2004, but prior to January 12, 2009. Each day a violation of Section 103 continues constitutes a separate violation. Civil penalties under Section 109 of CERCLA, 42 U.S.C. § 9609, may be assessed by an Administrative Order.

### III. Consent Agreement

19. 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.

20. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.

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

22. Respondent agrees to complete the Supplemental Environmental Project (SEP) set forth in this CAFO.

23. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of CERCLA.

24. 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 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.

25. 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 CERCLA.

#### IV. Final Order

26. Respondent shall pay a civil penalty of TWO THOUSAND FOUR HUNDRED EIGHTEEN DOLLARS (\$2,418) for the CERCLA violation which shall be paid within thirty (30) days of the effective date of this CAFO.

27. Respondent shall pay the CERCLA civil penalty by forwarding a cashier's or certified check, payable to "EPA Hazardous Substance Superfund" to one of the following addresses:

By Mail:

U.S. Environmental Protection Agency  
Superfund Payments  
Cincinnati Finance Center  
P.O. Box 979076  
St. Louis, Missouri 63197-9000

Overnight:

U.S. Bank  
Attention: Natalie Pearson (314) 418-4087  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, Missouri 63101

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

28. 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

Deanne D. Grant  
U.S. EPA, Region 4  
Air, Pesticides & Toxics Management Division  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

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

29. For the purposes of state and federal income taxes, 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 payments shall constitute a violation of this CAFO."

30. Respondent shall undertake and complete, in accordance with the approved SEP in this matter, the following Emergency Planning and Preparedness project within 60 days of the effective date of this CAFO. Cash donations shall not be used to satisfy the terms and conditions of this CAFO. Respondent shall expend not less than NINE THOUSAND SIXTY NINE DOLLARS (\$9,069) for the purchase and donation of the following equipment to the England Hill Volunteer Fire Department:

- 2 Scout Multi-Gas Monitor (Model #096-2561-61)
- 6 Parker Systems, Inc. Plug Rugs 8" X 8" (Model #PD-8R)
- 6 Parker Systems, Inc. Plug Rugs 16" X 16" (Model #PD-16R)
- 6 Parker Systems, Inc. Plug Rugs 16" X 24" (Model #PD-24R)
- 3 W.S. Darley & Co. Plug & Wedge Kit – Wooden Wedge Kit (Model #Y935)
- 2 Parker Systems, Inc. 10 lb. Plug N' Dike Pre-Mix (Model #PD-8PM/1)
- 1 Bullard eclipse TIC and Powerhouse w/Spare Battery (Model# ECLBUNDLE)
- 3 Vortex Portable Radios (Labtronics) (Model# VX 410V)

31. Respondent agrees that EPA may inspect the facility at any time in order to confirm that the SEP is being undertaken in conformity with the representations made herein.

32. No later than thirty (30) calendar days after the completion of the project, Respondent shall submit to EPA a SEP Completion Report. The Report shall be sent to the EPCRA Enforcement Section, to the attention of Deanne D. Grant 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 invoices and receipts, showing a total expenditure of NINE THOUSAND SIXTY NINE DOLLARS (\$9,069), or greater, was spent on the purchase of the equipment described in paragraph 30.

Upon request, Respondent shall send EPA any additional documentation requested by EPA.

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

34. 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.

35. 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 103 of the Comprehensive Environmental Response, Compensation and Liability Act".

36. If Respondent fails to timely and fully complete any part of the SEP, including failure to spend the minimum amount of NINE THOUSAND SIXTY NINE DOLLARS (\$9,069), Respondent shall pay to the United States a stipulated penalty of the difference between \$9,069 and the amount spent except as follows:

(a) if the SEP was fully and timely completed, and Respondent expended at least 90 percent of the minimum amount required, Respondent shall not pay a stipulated penalty;

or

(b) if the SEP was not fully and timely completed, but Respondent expended at least 90 percent of the minimum amount required, Respondent shall not pay a stipulated penalty if the Respondent has made a good faith effort to fully and timely complete the SEP.

For purposes of this paragraph, whether Respondent has fully and timely completed the SEP and whether Respondent made a good faith effort to do so shall be in the sole discretion of EPA.

37. 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.

38. 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.

39. 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.

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

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

42. 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  
Air Pesticides & Toxics Management Division  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-8451

43. 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**

V. Effective Date

44. 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:

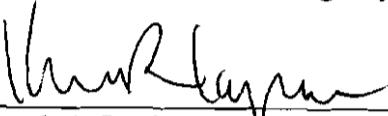
Calgon Carbon Corporation

By:  (Signature) Date: 12/23/09

Name: Richard D. Bese (Typed or Printed)

Title: V.P., General Counsel & Secretary (Typed or Printed)

U.S. Environmental Protection Agency

By:  Date: 12/18/2009

Kenneth R. Lapiere, Acting Director  
Air, Pesticides & Toxics  
Management Division  
Region 4

APPROVED AND SO ORDERED this 21<sup>st</sup> 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 Calgon Carbon Corporation, Docket

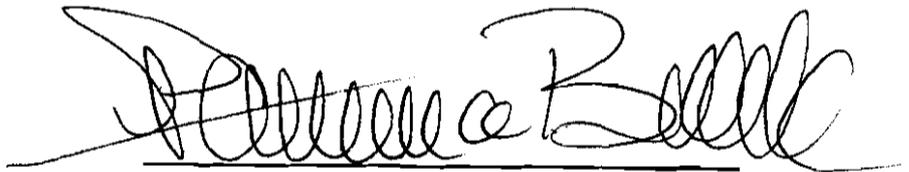
No. CERCLA-04-2010-2014(b), on the parties listed below in the manner indicated:

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

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

Ms. Colleen Donofrio (Certified Mail - Return Receipt Requested)  
Environmental, Energy and Natural Resources' Services Group  
Babst Calland Clements & Zomnir, P.C.  
380-A Tylers Mill Road  
Sewell, New Jersey 08080

Date: 1-26-10



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

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 \_\_\_\_\_ (Name) \_\_\_\_\_ (Date)

in the Region 4, ORC, OEA (Office) at (404) 562-9504 (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: Calgon Carbon Corporation (Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 2418- (If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CERCLA 04 2010 2014 (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)