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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

2006 NOV -6 PM 3: 37

IN THE MATTER OF: )

)

ENVIR. APPEALS BOARD

)

Albemarle Corporation )

)

DOCKET NO. CAA-HQ-2006--001

)

CONSENT AGREEMENT and

Respondent. )

FINAL ORDER

Pursuant to § 113 of the Clean Air Act, and based upon the available information, the United States Environmental Protection Agency ("EPA") makes and issues the following order.

**CONSENT AGREEMENT AND FINAL ORDER**

I. PRELIMINARY STATEMENT

1. Albemarle Corporation, hereinafter referred to as Respondent, is a United States Corporation with corporate headquarters in Richmond, VA and operation headquarters in Baton Rouge, LA.

2. Respondent voluntarily disclosed to EPA on April 6, 2005, that two 215-kilogram drums containing bromochloromethane had been exported to Canada between September 2004 and late January 2005 for transformation, but transformation did not occur.

3. Respondent voluntarily disclosed to EPA on April 22, 2005, that three export reports had not been filed in a timely manner in violation of 40 C.F.R. § 82.13..

4. Respondent voluntarily disclosed to EPA on July 19, 2005, several instances of recordkeeping, reporting, and certification failures in violation of 40 C.F.R. Part 82.

5. This Consent Agreement and Final Order (“CAFO”) is issued pursuant to the authority of 40 C.F.R §§ 22.13(b), 22.18 (b)(2) and (3), which pertain to the quick resolution and settlement of matters without the filing of a complaint.

6. This Consent Agreement and Final Order resolves the liability for the violations enumerated in Paragraphs 2, 3, and 4 that were discovered pursuant to an audit regarding Respondent's compliance with Title VI of the Clean Air Act, Stratospheric Ozone Protection, and more particularly 40 C.F.R. § 82.4(a), 40 C.F.R. § 82.11(a)(1)(ix), 40 C.F.R. § 82.13(f)(2)(xiii), 40 C.F.R. § 82.13(f)(2)(xviii), 40 C.F.R. § 82.13(f)(3)(v), 40 C.F.R. § 82.13(f)(3)(vi); 40 C.F.R. § 82.13(f)(vii); 40 C.F.R. § 82.13(f)(3)(viii), 40 C.F.R. § 82.13(f)(3)(xv, and 40 C.F.R. § 82.13(q).

7. As a result of the voluntary audit and self-reporting of these violations, the Environmental Protection Agency and Respondent have agreed to resolve this matter by executing this Consent Agreement.

8. EPA alleges that one or more of the violations referenced in Paragraphs 2, 3, and 4 constitutes a violation of 40 C.F.R. Part 82.

## II. CONSENT AGREEMENT

9. EPA and Respondent have agreed to resolve this matter by executing this Consent Agreement.

10. For the purposes of this proceeding, Respondent does not contest the jurisdiction of the EPA under § 113 of the Clean Air Act, and consents to the assessment of civil penalties specified below.

11. Respondent neither admits nor denies the factual allegations contained in this Consent Agreement.

12. Respondent represents that it is duly authorized to execute this Consent Agreement and that the party signing this Agreement on its behalf is duly authorized to bind Respondent to the terms of this Consent Agreement.

13. Respondent waives all rights to appeal this Final Order or request an adjudicatory hearing on any issue addressed in this Consent Agreement.

14. Respondent agrees not to claim a federal income tax deduction or credit covering any or all parts of the civil penalty paid to the United States Treasurer.

15. Respondent and EPA stipulate to the issuance of the proposed Final Order below.

Albemarle Corporation, Respondent

By Ronald C. Zumstein Dated: 5/10/06

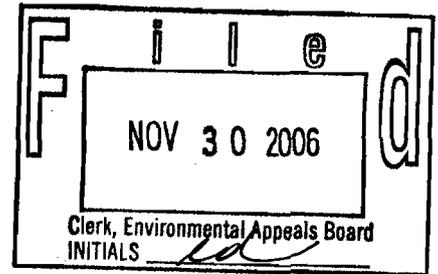
(Print name) Ronald C. Zumstein

Title: VP- Health, Safety, Environment

United States Environmental Protection Agency, Complainant

By John Y. Nichey Dated: 10/30/06

Headquarters EPA



### III. FINAL ORDER

IT IS HEREBY ORDERED and ADJUDGED as follows:

15. Respondent shall comply with all terms of the Consent Agreement.

16. For the reasons set forth above, Respondent is hereby assessed a penalty in the amount of \$52,000.00 in resolution of the violations alleged.

17. Respondent shall pay the assessed penalty no later than (30) calendar days from the date a conformed copy of this Consent Agreement and Final Order ("CAFO") is received by Respondent.

18. All payments under this CAFO shall be made by certified check or money order, payable to the United States Treasurer, mailed to:

U.S. Environmental Protection Agency  
(Washington D.C. Hearing Clerk)  
P.O. Box 360277  
Pittsburgh, PA 15251-6277

A transmittal letter, indicating Respondent's name, complete address, and this case docket number must accompany the payment. Respondent shall file a copy of the check and transmittal letter with the Headquarters Hearing Clerk at this address:

Sybil Anderson, Headquarters Hearing Clerk  
U.S. Environmental Protection Agency  
Ariel Rios Building (1900L)  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001

19. Failure to pay the penalty assessed under this CAFO may subject Respondent to a civil action pursuant to Section § 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), to

collect any unpaid portion of the assessed penalty, with interest, handling charges, enforcement expenses, including attorneys fees, and nonpayment penalties. In any such action, the validity, amount, and appropriateness of this order or the penalty assessed hereunder are not subject to review.

20. Pursuant to 42 U.S.C. § 7413(d)(5) and 31 U.S.C. § 3717, Respondent shall pay the following amounts:

A. Interest. Any unpaid portion of the assessed penalty shall bear interest in the rate established pursuant to 26 U.S.C. § 6621(a) from the date a conformed copy of this CAFO is received by Respondent, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the date a copy of this CAFO is received by Respondent.

B. Attorney's Fees, Collection Costs, Nonpayment Penalty. Pursuant to 42 U.S.C. § 7413(d)(5), should Respondent fail to pay on a timely basis the amount of the assessed penalty, Respondent shall be required to pay, in addition to such penalty and interest, the United State's enforcement expenses. This includes, but is not limited to, attorney fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

21. Each party shall bear its own costs, fees, and disbursements in this action.

22. The provisions of this CAFO shall be binding on Respondent, its officers, directors, employees, agents, servants, authorized representatives, successors, and assigns.

IT IS SO ORDERED

DATED this 30th day of November, 2006

Scott C. Felt

Environmental Appeals Board

**CERTIFICATE OF SERVICE**

I certify that the forgoing Consent Agreement and Final Order was sent to the following persons, in the manner specified, on the date below:

By inter-office mail:

Charles Garlow, Attorney/ Zofia Kosim, Engineer  
Air Enforcement Division, Mail Code 2242A  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, D.C. 20460

Copy by certified mail, return receipt requested:

Tracy Heinzman, Counsel for Respondent  
Wiley, Rein and Fielding, LLP  
1776 K Street, NW  
Washington, D.C. 20006

Dated: NOV 30 2006

  
Annetta Duncan,  
Secretary