



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

JAN 08 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John C. Bottini
Georgia-Pacific Brewton, LLC
Counsel-Environmental
133 Peachtree Street, N.E.
Atlanta, Georgia 30303

Re: Georgia-Pacific Brewton, LLC
Consent Agreement and Final Order
Docket No. CERCLA-04-2013-2001(b)

Dear Mr. Bottini:

Enclosed please find an executed copy of the Consent Agreement and Final Order (CAFO) that resolves the Comprehensive Environmental Response, Compensation, and Liability Act matter (Docket No. CERCLA-04-2013-2001(b)) involving Georgia-Pacific Brewton, LLC. The CAFO was filed with the Regional Hearing Clerk, as required by 40 C.F.R. 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 your client on notice of its potential duty to disclose to the Security and Exchange Commission any environmental enforcement actions taken by the Environmental Protection Agency. If you or your client have any questions with regards to the SEC's environmental disclosure requirements, please 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 black ink, appearing to read "Caron B. Falconer".

Caron B. Falconer
Chief
EPCRA Enforcement Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF)
)
Georgia-Pacific Brewton, LLC)
)
Respondent.)
_____)

Docket Number: CERCLA-04-2013-2001(

RECEIVED
EPA REGION IV
2013 JAN -8 PM 4: 27
HEARING CLERK

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 Georgia-Pacific Brewton, LLC (hereinafter, Respondent).

2. 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 14-31 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.

3. 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

4. Respondent, Georgia-Pacific Brewton, LLC , does business in the state of Alabama.

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 32224 Highway 31 South, Brewton, Alabama 36426.

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).

III. EPA's Allegation of Violation

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 (RQs) for those substances. This list which is codified at 40 C.F.R. Part 302, was initially published on April 4, 1985 (50 Fed. Reg. 13474) and is periodically amended.

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 hazardous substances from such facility or vessel in an amount equal to, or greater than the RQs, to immediately notify the National Response Center (NRC).

11. Respondent was in charge of the facility during the relevant period described below.

12. Zinc chloride 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 1,000 pounds, as specified in 40 C.F.R. § 302.4.

13. Phosphoric acid 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 5,000 pounds, as specified in 40 C.F.R. § 302.4.

14. On March 23, 2011, Respondent had a release of zinc chloride and phosphoric acid above the respective RQs at the facility.

15. 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 zinc chloride and phosphoric acid in amounts equal to or greater than the respective RQs at Respondent's facility, and is therefore subject to the assessment of penalties under Section 109 of CERCLA, 42 U.S.C. § 9609.

16. 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 \$37,500 for each violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), that occurred on or after 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.

IV. Consent Agreement

17. 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.

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

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

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

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

22. 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. Complainant does not waive 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.

23. 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.

V. Final Order

24. Respondent shall pay a civil penalty of THREE THOUSAND FIVE HUNDRED NINETY ONE DOLLARS (\$3,591) for the CERCLA violation which shall be paid within thirty (30) days of the effective date of this CAFO.

25. 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, MO 63197-9000

BY OVERNIGHT

U.S. Bank
Government Lockbox 979076 US
EPA Superfund Payments
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
(314) 418-1028

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

26. 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, GA 30303

Karl Wilson
U.S. EPA, Region 4
Air, Pesticides & Toxics Management Division
61 Forsyth Street, S.W.
Atlanta, GA 30303

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

27. 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.

VI. Supplemental Environmental Project

28. Respondent shall undertake and complete, in accordance with the approved SEP in this matter, the following Emergency Planning and Preparedness SEP 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. Georgia-Pacific Brewton, LLC shall expend FIFTEEN THOUSAND SEVEN HUNDRED FORTY THREE DOLLARS (\$15,743) to purchase the following equipment for the Brewton Fire Department: The Parties agree that the FIFTEEN THOUSAND SEVEN HUNDRED FORTY THREE DOLLARS (\$15,743) cost of the SEP is the best available estimate

and thus the failure of Respondent to spend \$15,743, will not constitute a violation of this CAFO provided the SEP is fully and timely completed to match the description set forth herein.

- 1 2012 unregistered, untitled Kawasaki KAF620 Mule 4010 4-wheel drive (with a mounted Brewton Fire Department decal and amber/yellow light),
- 1 Quick Water Pump Skid Unit with manual reel and a 50-gallon tank,
- 1 5 x 10 Wood Floor Trailer.

29. Respondent agrees that the cost of performing the SEP exceeds the minimum required SEP expenditure of \$13,468.

30. Respondent agrees to the following language concerning the Emergency Planning and Preparedness SEP:

Georgia-Pacific Brewton, LLC, certifies that neither it, nor 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.

31. Georgia-Pacific Brewton, LLC, has obtained and presented to EPA a separate written certification from the Brewton Fire Department certifying that it is not a party to any open federal financial assistance transaction as stated in Paragraph 30.

32. Respondent agrees that in order to receive credit for the SEP, it must fully and timely complete the SEP project in accordance with Paragraph 28. If Respondent fails to timely and fully complete any part of the Emergency Planning and Preparedness SEP in Paragraph 28, Respondent shall be liable for a stipulated penalty in the amount of the difference between \$13,468 and the actual amount spent. For purposes of this paragraph, whether Respondent has fully and timely completed the SEP shall be in the sole discretion of EPA.

33. Respondent agrees that EPA may conduct an inspection at any time in order to confirm that the SEP is being undertaken in conformity with the representations made herein.

34. No later than seventy five (75) 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 Karl D. 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, but not limited to, invoices and receipts, showing the expenditure as referenced above in Paragraph 28, was spent on the Emergency Planning and Preparedness SEP described in Paragraph 28.

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

35. 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.

36. 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 violation for violation of Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act."

37. Respondent shall pay any stipulated penalties that may 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.

38. 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 the report is late.

39. 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.

40. 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.

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

43. The following individual 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, GA 30303
(404) 562-8451

44. 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

VII. Effective Date

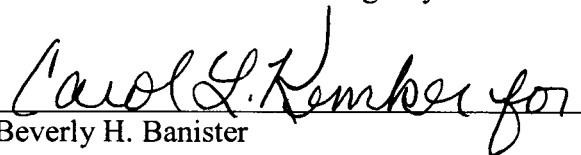
45. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

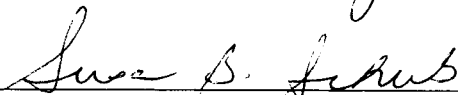
Georgia-Pacific Brewton, LLC

By:  (Signature) Date: 12/20/2012
Name: Jeffrey T. Joyce (Typed or Printed)
Title: V.P. Manufacturing, Brewton (Typed or Printed)

U.S. Environmental Protection Agency

By:  Date: 11/20/12
Beverly H. Banister
Director
Air, Pesticides & Toxics
Management Division

APPROVED AND SO ORDERED this 8 day of Jan., 2013.


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 Georgia-Pacific Brewton, LLC, Docket
Number: CERCLA-04-2013-2001(b), on the parties listed below in the manner indicated:

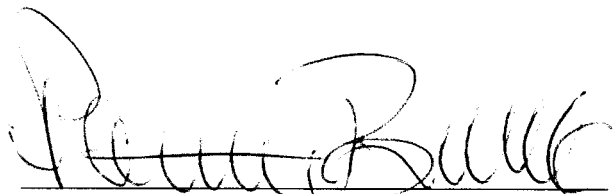
Caron B. Falconer (Via EPA's internal mail)
U.S. EPA, Region 4
61 Forsyth Street
Atlanta, GA 30303

Marlene Tucker (Via EPA's internal mail)
U.S. EPA Region 4
Office of Environmental Accountability
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

Mr. John C. Bottini (Certified Mail - Return Receipt Requested)
Georgia-Pacific LLC
Counsel - Environmental
133 Peachtree Street, N.E.
Atlanta, Georgia 30303

Date: 1-8-13



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