



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

JUL 9 2007

4WD-ROECB

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Stu Silberman, Superintendent
Fayette County Public Schools
701 East Main Street
Lexington, KY 40502

SUBJ: Consent Agreement and Final Order:
Docket No. CWA-04-2007-5010

Dear Mr. Silberman:

Enclosed is a copy of the Consent Agreement and Final Order (CAFO) for the above referenced matter. This CAFO became effective on the date of filing with the Regional Hearing Clerk as required by 40 C.F.R. §§ 22.6 and 22.31, and as indicated on the Certificate of Service.

The United States Environmental Protection Agency (EPA) hereby notifies you that the Expedited Settlement Agreement has been executed by both parties and is binding on EPA and you. Upon receipt of your assessed penalty of \$500.00, EPA will take no further action against you for the violations cited in the Settlement Agreement. Your copy of the executed agreement is enclosed.

You must submit your payment within seven (7) days of your receipt of this letter by either electronic funds transfer, certified or cashiers check made payable to "Environmental Protection Agency." The check and a letter accompanying the check shall reference the name of the responsible party (Oil Spill Liability Trust Fund -311, Fayette County Public Schools) and the EPA docket number CWA-04-2007-5010, and shall be sent depending upon your preferred method of payment identified in Enclosure A.

ENCLOSURE A

PAYMENT INFORMATION

Wire Transfers

SWIFT Address MELNUS3P - (SWIFT address is only needed on international transfers)

Mellon Bank
ABA 043000261
Account 9109125
22 Morrow Drive
Pittsburgh PA 15235

Contact - Patricia McKaveney at 412-234-5805

CHECK PAYMENTS

US checks by regular US postal service mail

U.S. Environmental Protection Agency
P.O. Box 371099M
Pittsburgh, PA 15251

Contact - Patricia McKaveney at 412-234-5805

For FedEx and other non-US Postal Service express mail the correct address is:

Mellon Client Service Center
ATTN: Shift Supervisor
Lockbox 371099M Account 9109125
500 Ross Street
Pittsburgh, PA 15262-0001

JUN 21 2007

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
61 FORSYTH STREET, ATLANTA, GEORGIA 30303
EXPEDITED SPILL SETTLEMENT AGREEMENT

DOCKET NO. CWA-04-2007-5010 Time:11:10
At: Tate High School (Campus) 1105 Centre Parkway, Lexington, Fayette County, Kentucky, Fayette County Public Schools (Respondent) discharged 800 gallons of oil in violation of Section 311(b)(3) of the Clean Water Act (the Act), as noted on the attached ALLEGED CIVIL VIOLATIONS (Form), which is hereby incorporated by reference.

EPA finds the Respondent's conduct is subject to the discharge prohibition of Section 311(b)(3) of the Act, as described in that statute and further described by 40 CFR § 110.3. The Respondent admits being subject to Section 311(b)(3) and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the form. Respondent does not contest the Allegations in the Form, and waives any objections it may have to EPA's jurisdiction.

EPA is authorized to enter into this Expedited Spill Settlement Agreement under the authority vested in the Administrator of EPA by Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. §1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and by 40 CFR §22.13(b). The parties enter into this Expedited Spill Settlement Agreement in order to settle civil violations described in the Form for a penalty of \$500.00. Respondent consents to the assessment of this penalty.

This Expedited Settlement is also subject to the following terms and conditions: Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has investigated the cause of the spill, it has cleaned up the spill pursuant to federal requirements at a cost of \$100,000.00 and it has taken corrective actions that will prevent future spills. The Respondent also by signature on this Expedited Spill Settlement Agreement agrees to payment of the penalty assessed. **Do not enclose payment.** Upon receiving written execution of this Agreement, Respondent shall submit payment within 7 days by certified check or electronic funds transfer for \$500.00 payable to the "US Environmental Protection Agency CWA-311". Instructions on how to make this payment will be included in the written notice that will be issued when the Expedited Spill Settlement Agreement becomes effective.

Upon signing and returning this Expedited Spill Settlement Agreement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to EPA's approval of the Expedited Settlement without further notice.

After this Expedited Spill Settlement Agreement becomes effective, EPA will take no further action against the Respondent for the violations of Section 311(b)(3) of the Act described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by the Respondent of Section 311(b)(3) of the Act or of any other federal statute or regulation. By its first signature, EPA ratifies the Findings and Alleged Violations set forth in the Form.

This Expedited Spill Settlement Agreement is binding on the parties signing below, and effective upon EPA's filing of the document with the Regional Hearing Clerk. If the Respondent does not sign and return this Expedited Settlement as presented within 30 days of the date of its receipt and submit payment of the assessed penalty, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Form.

APPROVED BY RESPONDENT:

Name (print): Stu Silberman
Title (print): Superintendent
Signature: _____

APPROVED BY EPA:

Narindar Kumar For _____ Date _____
Narindar Kumar, Chief
RCRA/OPA Enforcement & Compliance Branch
RCRA Division

IT IS SO ORDERED:

Susan B. Schub Date 7/9/07
Susan B. Schub
Regional Judicial Officer

RECEIVED
EPA REGION IV
2007 JUN 19 9 2:13 PM
HEARING CLERK

ALLEGED CIVIL VIOLATIONS - DOCKET NO. CWA-04-2007-5010

1. Fayette County Public Schools, Respondent, is an Institution organized under the laws of Kentucky with a place of business located at 701 Main Street, Lexington, Kentucky 40502. The Respondent is a person within the meaning of Section 311(a)(7) of the Clean Water Act, 33 U.S.C. § 1321(a)(7).
2. Respondent is the owner of an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), which is located at Tate Creek High School (Campus) at 1105 Centre Parkway, Lexington, Fayette County, Kentucky (“facility”).
3. Section 311(b)(3) of the Act prohibits the discharge of oil 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.
4. For purposes of Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. §1321(b)(3) and (b)(4), discharges of oil 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 defined in 40 C.F.R. §110.3 to include discharges of oil that (1) violate applicable water quality standards or, (2) cause a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines or, (3) cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.
5. On December 5, 2006, Respondent discharged an estimated 800 gallons of oil as defined in Section 311(a)(1) of the Act, 33 U.S.C. §1321(a)(1), and 40 C.F.R. §110.1, from its facility into or upon the unnamed blue line stream flowing into West Hickman Creek flowing into the Kentucky River and adjoining shorelines.
6. The unnamed blue line stream flowing into West Hickman Creek flowing into the Kentucky River is a “navigable water of the United States” subject to the jurisdiction of Section 311 of the Act as defined in Section 502(7) of the Act, 33 U.S.C. §1362(7), and 40 C.F.R. §110.1.
7. Respondent’s December 5, 2006 discharge of oil from its facility caused a sheen upon or discoloration of the surface of the adjoining shoreline of the unnamed blue line stream or caused a sludge or emulsion to be deposited beneath the surface, and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. §110.3.

ALLEGED CIVIL VIOLATIONS - DOCKET NO. CWA-04-2007-5010 (Cont'd)

8. Respondent's December 5, 2006 discharge of oil from its facility into or upon the unnamed blueline stream and adjoining shorelines in a quantity that has been determined may be harmful under 40 C.F.R. §110.3 violated Section 311(b)(3) of the Act. Pursuant to Section 311(b)(6)(B)(i) of the Act, and 40 C.F.R. § 19.4, the Respondent is liable for civil penalties of up to \$11,000 per violation, up to a maximum of \$32,500.

Docket No. CWA-04-2007-5010

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached Consent Agreement and Final Order, in the Matter of Fayette County Public Schools, Docket No. CWA-04-2007-5010 (filed with the Regional Hearing Clerk on ~~JUL - 9 2007~~ 2007) was served on ~~JUL - 9 2007~~ 2007 in the manner specified to each of the persons set forth below:

Stu Silberman, Superintendent
Fayette County Public Schools
701 East Main Street
Lexington, KY 40502

Via Certified Mail
Return Requested

Victor Weeks, Risk Management Plan Coordinator
EPCRA Enforcement Section
U.S. EPA, Region 4
61 Forsyth St.
Atlanta, GA 30303

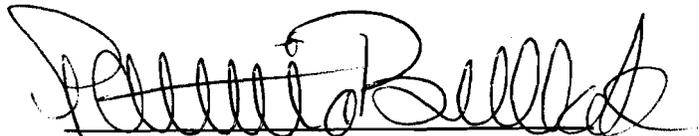
Via EPA's Internal Mail

Mel Rechtman
RCRA OPA Enforcement & Compliance Branch
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, GA 30303

Via EPA's Internal Mail

Date:

7-9-07



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

PAYMENT DUE DATE: _____

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: Mel Rechtman on June 21, 2007
(Name) (Date)

in the ROECB at 404/562-8745
(Office) (Phone 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

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Fayette County Public Schools

The Total Dollar Amount of the Receivable: 500.00

(If installments, attach schedule of amounts and respective due dates. See other side of this form.)

The Case Docket Number: CWA-04-2007-5010

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: Waste

To Be Completed By Cincinnati Finance Center

The IFMS Accounts Receivable Control Number is: _____ Date: 0/00/20067

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 | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |