



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

FEB 03 2005

4APT-EES

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Tony F. McCarty
Supervisor
James E. Estes Water Treatment Plant
1385 Binford Drive
Auburn, Alabama 36830

RE: Expedited Settlement Agreement
Docket No. CAA-04-2005-8013(b)

Dear Mr. McCarty:

Enclosed please find an executed copy of the Expedited Settlement Agreement (ESA) that resolves the Clean Air Act (CAA) matter (Docket No. CAA-04-2005-8013(b)) involving the Auburn Water Works Board. The ESA was filed with the Regional Hearing Clerk, as required by 40 CFR Part 22 and became effective on today's date.

Penalty payment of \$600.00 has been received and the U.S. Environmental Protection Agency, Region 4, Emergency Planning and Community Right-to-Know Act Enforcement Section considers this matter closed.

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 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 Mr. Victor L. Weeks at (404) 562-9189.

Sincerely,

A handwritten signature in black ink, appearing to read "A. G. Toney".

Anthony G. Toney, Chief
EPCRA Enforcement Section

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

**EXPEDITED SETTLEMENT
AGREEMENT**

DOCKET NO: CAA-04-2005-8013(b)

This ESA is issued to:

**Auburn Water Works Board
James E. Estes Water Treatment Plant
214 N. Donahue Drive
Auburn, Alabama 36830**

RECEIVED
EPA REGION IV
2005 FEB - 3 PM 1:25
HEARING CLERK

**for violating the following requirements of Section 112(r)(7) of the Clean Air Act:
40 C.F.R. §68.48(a); 40 C.F.R. § 68.50(a); 40 C.F.R. § 68.54(b); and 40 C.F.R. § 68.58(a).**

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency (EPA), Region 4, the Director of the Air, Pesticides and Toxics Management Division (Complainant), and by the Auburn Water Works Board (Respondent), pursuant to Section 113(a)(3) and (d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). On August 13, 2003, EPA obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. §7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

On December 16, 2003, an authorized representative of the EPA conducted a compliance inspection of the Respondent's James E. Estes Water Treatment Plant facility located at 1385 Binford Drive, Auburn, Alabama, to determine compliance with the Risk Management Program (RMP) regulations promulgated at 40 C.F.R. § 68 under Section 112(r) of the Act. EPA found that the Respondent had violated regulations implementing Section 112(r) of the Act by failing to comply with the requirements of 40 C.F.R. § 68. The specific alleged violations cited below are relevant to the chlorine process (RMP Process 56571):

1. Failure to document the codes and standards used to design, build and operate the process as part of the process safety information (40 C.F.R. § 68.48(a)(4)).
2. Failure to identify safeguards used or needed to control process hazards or prevent equipment malfunctions or human errors as part of the process hazard review (40 C.F.R. § 68.50(a)(3)).

3. Failure to identify any steps used or needed to detect or monitor releases as part of the process hazard review (40 C.F.R. § 68.50(a)(4)).
4. Failure to provide refresher training to each employee at least every three years, to ensure that the employee understands and adheres to the current operating procedures of the process (40 C.F.R. § 68.54(b)).
5. Failure to certify that the owner or operator has evaluated compliance with the RMP prevention program provisions at least every three years to verify that the procedures and practices are adequate and are being followed (40 C.F.R. § 68.58(a)).

SETTLEMENT

In consideration of Respondent's size, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the entire record the parties enter into the ESA in order to settle the violations cited above, for the total penalty amount of **\$600.00**.

This settlement is subject to the following terms and conditions: the Respondent by signing below admits the jurisdictional allegations contained herein, neither admits nor denies the specific factual allegations contained herein, and consents to the assessment of the penalty as stated above; respondent waives its rights to a hearing afforded by Section 113(d)(2)(A) of the Act, 42 U.S.C §7413(d)(2)(A), and to contest the allegations contained in this ESA; and each party to this action shall bear its own costs and fees, if any.

Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has corrected the violations and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$600.00** in payment of the full penalty amount to the following address:

U. S. EPA Region 4
P. O. Box 100142
Atlanta, Georgia 30384

The Respondent's name and the Docket Number of this ESA must be included on the check. The Docket Number is located at the top left corner of the first page of this ESA.

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 ESA to the following person:

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

The signed original ESA and a copy of the check must be sent by certified mail to:

Victor L. Weeks
U. S. EPA Region 4
EPCRA Enforcement Section
61 Forsyth Street, S. W.
Atlanta, Georgia 30303

Upon Respondent's submission of the signed original ESA (including an attached copy of the settlement penalty check), EPA will take no further civil action against Respondent for the alleged violations of the Act referenced in this ESA. EPA does not waive any other enforcement action for any other violations of the Clean Air Act or any other statute.

The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Anthony G. Toney
U. S. EPA - Region 4
61 Forsyth St., S. W.
Atlanta, Georgia 30303
(404) 562-9085

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Tony Segrest (Auburn Water Works Board) Date: 1-11-05

Name (print): Tony Segrest

Title (print): Water Utility Manager
Auburn Water Works Board

FOR COMPLAINANT:

Beverly H. Banister Date: 12/14/04

Beverly H. Banister
Director
Air, Pesticides and Toxics Management Division
U. S. EPA Region 4

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

Susan B. Schub Date: 2/2/05

Susan B. Schub
Regional Judicial Officer
U. S. EPA Region 4

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Expedited Settlement Agreement, in the Matter of: Auburn Water Works Board, CAA-04-2005-8013(b), on the parties listed below in the manner indicated:

Anthony Toney
U. S. EPA - Region 4
Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303

(Via EPA's internal mail)

Richard Leahy
U. S. EPA - Region 4
Office of Environmental Accountability
61 Forsyth Street
Atlanta, Georgia 30303

(Via EPA's internal mail)

Mr. Tony McCarty
Supervisor
James E. Estes Water Treatment Plant
1385 Binford Drive
Auburn, Alabama 36830

(Via Certified Mail -
Return Receipt Requested)

Date:

2-3-05



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental Protection Agency
Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth St., S. W.
Atlanta, Georgia 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 OEA /OATGL/OIS at 9504
(Office) (Telephone Number)

- | | |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree
USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree
DOJ COLLECTS | <input type="checkbox"/> Overnight Billing |
| <input type="checkbox"/> This is an original debt. | <input type="checkbox"/> Other Receivable |
| | <input type="checkbox"/> This is a modification. |

PAYEE: James E. Estes Water Treatment Plant/Auburn Water Works
(Name of person and/or Company/Municipality making the payment)

For ~~Overnight Billing, the anniversary date, or the date specified in the order, or the date as directed by the program office to initiate billing:~~ _____
(Date)

The Total Dollar Amount of the Receivable: \$ 600-
(If installments, attach schedule of amounts and respective due dates. See other side of this form.)

The Case Docket Number: CA# 04 2005-8013(b)

The Site Specific Superfund Account Number: _____

The Designated Regional /Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: Peggy Whitney of the Financial Management Section at (404) 562-8238.

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/BJM 1647
P.O. BOX 7611, Benjamin Franklin Station
Washington, DC 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 sent to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |