



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

SC-6J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Karen Lowell, Esquire  
1683 Southwest 109<sup>th</sup> Terrace  
Fort Lauderdale, Florida 33324

Re: Hutson Enterprises, Inc., d/b/a Sparkle Pool, Service and Supply of Indiana,  
Indianapolis, Indiana  
Consent Agreement and Final Order – Docket No: EPCRA-05-2007-0027

Dear Ms. Lowell:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. EPA has filed the other original CAFO with the Regional Hearing Clerk on May 21, 2008.

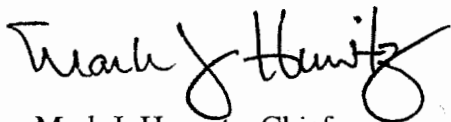
Please pay the **first** installment of the EPCRA civil penalty in the amount of \$2,000 in the manner prescribed in paragraphs 8, 9, and 10, and reference your check with the number BD 2750864E003 and docket number EPCRA-05-2007-0027. This installment payment is due on June 21, 2008.

Please pay the **second** installment of the EPCRA civil penalty in the amount of \$5,300 in the manner prescribed in paragraphs 8, 9 and 10, and reference your check with the number BD 2750864E003 and docket number EPCRA-05-2007-0027. This installment payment is due on October 15, 2008.

Please pay the **last** installment of the EPCRA civil penalty in the amount of \$5,300 in the manner prescribed in paragraphs 8, 9, and 10, and reference your check with the number BD 2750864E003 and docket number EPCRA-05-2007-0027. This installment payment is due on October 15, 2009.

Please feel free to contact Ruth McNamara at (312) 353-3192 if you have any questions regarding the enclosed documents. Please direct any legal questions to Robert Guenther, Associate Regional Counsel, at (312) 886-0566 Thank you for your assistance in resolving this matter.

Sincerely yours,



Mark J. Horwitz, Chief  
Chemical Emergency Preparedness  
and Prevention Section

Enclosure

cc: Regional Hearing Clerk  
U.S. EPA Region 5

Robert Guenther  
Office of Regional Counsel  
U.S. EPA Region 5

Ian Ewusi-Wilson  
IN SERC

Judge Moran (w/enclosure)  
Administrative Law Judge  
U.S. EPA, Headquarters

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF: )

HUTSON ENTERPRISES, INC., )  
d/b/a SPARKLE POOL )  
SERVICE & SUPPLY OF IND., )  
INDIANAPOLIS, INDIANA, )  
RESPONDENT. )

Docket Nos.:  
EPCRA-05-2007-0027  
JUDGE MORAN

CONSENT AGREEMENT AND FINAL ORDER

1. Complainant, Chief of the Emergency Response Branch, Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5, initially brought this administrative action seeking a civil penalty under section 325 of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045.

2. On July 16, 2007, U.S. EPA filed a Complaint in this action against Respondent Hutson Enterprises, Inc., d/b/a Sparkle Pool Service and Supply of Indiana. The Complaint alleges that Respondent violated section 312(a) of EPCRA, 42 U.S.C. § 11022(a), by failing to timely file forms reporting its inventories of chlorine and sodium sesquicarbonate to the State and local emergency planning and response agencies for calendar years 2003 and 2004.

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U.S. EPA

Stipulations

3. Pursuant to 40 C.F.R. § 22.18(b)(2), Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint. The parties each acknowledge that Respondent is in compliance with section 312 of the EPCRA statute, 42 U.S.C. § 11022, including having filed the required Tier II forms for 2003 and 2004 with the appropriate state and local emergency response agencies.

4. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

5. The parties consent to the terms of this CAFO.

6. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

7. Considering the factors provided by section 325(b)(1)(C) of EPCRA, 42 U.S.C. § 11045(b)(1)(C), U.S. EPA agrees to mitigate the penalty proposed in the Complaint of \$33,000 to \$12,000. Respondent agrees to pay a **\$12,000** penalty to resolve the allegations in the Complaint.

8. Within 30 days after the effective date of this CAFO, Respondent must pay an initial installment **\$2,000** of

the agreed civil penalty. Respondent must pay the EPCRA penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

U.S. EPA, Region 5  
ATTN: Finance & Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

The check must note the case title of this matter, its docket number (EPCRA-05-2007-0027), and the billing document number 2750864E003.

9. Respondent must pay \$5,000 plus accumulated interest at six percent per annum on **October 15, 2008**, and **October 15, 2009**. The amount due on each of those dates, reflecting principal due and accumulated interest, is **\$5,300**.

10. A transmittal letter, stating the case title, Respondent's complete address, the case docket number and the billing document number must accompany each payment. Respondent must send copies of the check and transmittal letter to:

Regional Hearing Clerk (E-13J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3511

Ruth McNamara (SC-6J)  
Chemical Emergency Preparedness  
and Prevention Section  
U.S. Environmental Protection Agency, Region 5

77 West Jackson Boulevard  
Chicago, IL 60604-3511

Robert S. Guenther (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3511

11. This civil penalty is not deductible for federal tax purposes.

12. If Respondent does not timely pay the civil penalty, or any of the installments or interest accruing to them under paragraphs 7 - 9, above, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action.

13. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a six percent per year penalty on any principal amount not paid within 90 days of the date that this CAFO has been entered by the Regional Hearing Clerk.

General Provisions

14. According to 40 C.F.R § 22.31(a), this CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint.

15. Further according to 40 C.F.R § 22.31(a), this CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

16. This CAFO does not affect Respondent's responsibility to comply with EPCRA and CERCLA and other applicable federal, state and local laws, and regulations.

17. This CAFO is a "final order" for purposes of U.S. EPA's Enforcement Response Policy for section 304 of EPCRA and section 103 of CERCLA.

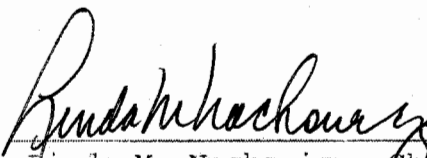
18. The terms of this CAFO bind the parties and their successors and assigns.

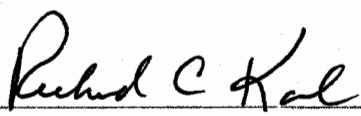
19. Each person signing this Consent Agreement certifies that he or she has the authority to sign this Consent Agreement for the party whom he or she represents and to bind that party to its terms.

20. Each party agrees to bear its own costs and fees, including attorneys' fees, in this action.

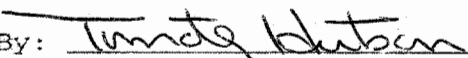
21. This CAFO constitutes the entire agreement between the parties.

**For U.S. Environmental Protection Agency**

Date: 5/19/08 By:   
Linda M. Nachowicz, Chief  
Emergency Response Branch II  
Superfund Division

Date: 5-20-08 By:   
Richard C. Karl, Director  
Superfund Division

**For Hutson Enterprises, Inc., Respondent**

Date: 5/9/08 By:   
Timothy Hutson

In the Matter of:  
Hutson Enterprises, Inc., d/b/a  
Sparkle Pool Service & Supply of Indiana  
Indianapolis, Indiana  
Docket No: EPCRA-05-2007-0027



In the Matter of:  
Hutson Enterprises, Inc., d/b/a  
Sparkle Pool Service & Supply of Indiana  
Indianapolis, Indiana  
Docket No: EPCRA-05-2007-0027

FINAL ORDER

This Consent Agreement and Final Order, as agreed to  
by the parties, shall become effective immediately upon  
filing with the Regional Hearing Clerk. **IT IS SO ORDERED.**

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Date: 5-20-08 By: *Bharat C Mathur for*  
Bharat Mathur  
Acting Regional Administrator  
U.S. Environmental Protection  
Agency - Region 5

In the Matter of:  
Hutson Enterprises, Inc., d/b/a  
Sparkle Pool Service & Supply of Indiana,  
Indianapolis, Indiana  
Docket No: EPCRA-05-2007-0027

Certificate of Service

I, Ruth McNamara, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number EPCRA-05-2007-0027, to the Regional Hearing Clerk, Region 5, U.S. Environmental Protection Agency, served a copy by internal Agency pouch mail on Administrative Law Judge William B. Moran at U.S. EPA Headquarters in Washington, D.C., and mailed a second original by first-class, postage prepaid, certified mail, return receipt requested, to counsel for Hutson Enterprises, Inc., by placing it in the custody of the United States Postal Service addressed as follows:

Karen Lowell, Esquire  
1683 Southwest 109<sup>th</sup> Terrace  
Fort Lauderdale, Florida 33324

on the 21<sup>ST</sup> day of May, 2008.

Ruth McNamara  
Ruth McNamara

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