



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

UG 02 2011

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Joan Sasine
Bryan Cave LLP
One Atlantic Center, 14th Floor
1201 West Peachtree Street, NW
Atlanta, Georgia 30309

RE: J & J Chemical Co.
Consent Agreement and Final Order (CAFO)
Docket No. CWA-04-2011-5132(b)

Dear Ms. Sasine:

Enclosed please find a copy of the executed Consent Agreement and Final Order (CAFO) as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CAFO is effective on the date it is filed with the RHC, and the penalty due date is calculated from that effective date.

If you have any questions, please feel free to contact me at (404) 562-9685.

Sincerely,

A handwritten signature in cursive script that reads "Colleen E. Michuda".

Colleen E. Michuda
Associate Regional Counsel
Office of Environmental Accountability

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF)	
)	CWA SECTION 311 CLASS I
J & J Chemical Co.)	CONSENT AGREEMENT AND
190 Trans Tech Drive)	FINAL ORDER
Athens, Georgia 30601)	UNDER 40 C.F.R. § 22.13(b)
)	
Respondent)	Docket No. CWA-04-2011-5132(b)

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EPA REGION 4

LEGAL AUTHORITY

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 311(b)(6)(B)(i) of the Clean Water Act (“CWA”), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and under the authority provided by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 4, who has in turn delegated these authorities through the Director, RCRA Division, to the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division (“Complainant”).

CONSENT AGREEMENT

Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this Consent Agreement and Final Order (“CAFO”), and Respondent hereby agrees to comply with the terms of this CAFO. For purposes of this CAFO and settlement of this action, Respondent admits to the jurisdictional statements contained herein.

Stipulations

1. Respondent is a corporation organized under the laws of Florida and is registered to do business in the State of Georgia. Respondent is therefore a “person” within the meaning of Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7).

2. Respondent is the “owner and operator,” within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), of a chemical manufacturing facility (“facility”), which produced products such as deodorizers, cleaners, and fragrance enhancers, located at 190 Trans Tech Drive, Athens, Clarke County, Georgia.

3. The facility is an “onshore facility” within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10).

4. East Fork Trail Creek, which flows to the North Oconee River, is a navigable water as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 116.3, and is therefore subject to the jurisdiction of Section 311 of the CWA.

5. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the discharge of hazardous substances into 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.

6. Hazardous substances under Section 311 of the CWA, 33 U.S.C. § 1321, are designated at 40 C.F.R. § 116.4, pursuant to Sections 311(a)(14) and 311(b)(2)(A) of the CWA, 33 U.S.C. §§ 1321(a)(14) and 1321(b)(2)(A).

7. Pursuant to Section 311(b)(4) of the CWA, 33 U.S.C. § 1321(b)(4), the determination of the quantities of hazardous substances that may be harmful and thereby

prohibited under Section 311(b)(3), 33 U.S.C. § 1321(b)(3), is defined at 40 C.F.R. § 117.1 to include those discharges that exceed reportable quantities as set forth in 40 C.F.R. § 117.3.

8. Formaldehyde is designated as a hazardous substance at 40 C.F.R. § 116.4, with a reportable quantity of 100 pounds, as listed in 40 C.F.R. § 117.3.

9. Dichlorobenzene, including its isomer, 1,4-dichlorobenzene, is designated as a hazardous substance at 40 C.F.R. § 116.4, with a reportable quantity of 100 pounds, as listed in 40 C.F.R. § 117.3.

Allegations

Complainant alleges, and Respondent neither admits nor denies, that:

10. On July 28, 2010, approximately 205 pounds of formaldehyde and 450 pounds of 1,4-dichlorobenzene was discharged from Respondent's facility into East Fork Trail Creek.

11. The July 28, 2010, discharge of formaldehyde and 1,4-dichlorobenzene described in paragraph 10, exceeded the respective reportable quantities; and, therefore, was in a quantity that has been determined may be harmful. Accordingly, Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), was violated.

Waiver of Rights

12. Solely for the purpose of this Consent Agreement, Respondent waives the right to contest the allegations contained herein, to a hearing under Section 311(b)(6)(B)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(i), or to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the CWA, 33 U.S.C. § 1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

Penalty

13. Respondent consents to the payment of a civil penalty of Four Thousand Five Hundred Dollars (\$4,500.00).

Payment Terms

14. No later than 30 days after the effective date of the Final Order, Respondent shall pay the penalty by means of a corporate cashier's or certified check, by electronic funds transfer (EFT), or on-line. If paying by check, Respondent shall submit a corporate cashier's or certified check, payable to "Environmental Protection Agency," and bearing the notation "OSLTF – 311," and Respondent shall note the title and docket number of this case.

If Respondent sends payment by the U.S. Postal Service, the payment shall be sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by an overnight commercial delivery service such as DHL, FedEx, or UPS, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
314-418-1028

If Respondent sends payment by wire transfer, the wire transfer should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

If paying on-line, access at www.pay.gov. Enter sfo 1.1 in the search field and then open the form and complete the required fields.

15. Respondent shall submit copies of the check (or, in the case of a wire transfer or on-line payment, a copy of the wire transfer or on-line confirmation) to the following people:

Patricia Bullock
Regional Hearing Clerk
U.S. EPA- Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

and to:

Bill Truman, Acting Chief
South Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA- Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

16. Penalties paid pursuant to this CAFO are not deductible for federal purposes pursuant to 26 U.S.C. § 162(f).

17. Respondent's failure to pay the penalty assessed by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs, and an additional quarterly nonpayment penalty pursuant to

Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

General Provisions

18. The Final Order shall be binding upon Respondent and Respondent's officers, directors, agents, and successors or assigns.

19. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the CWA, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law.

Payment of the penalty pursuant to this Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein. Except as otherwise set forth herein, compliance with this Consent Agreement shall resolve the allegations of violations contained herein.

20. The undersigned representative of Respondent hereby certifies that he or she is fully authorized to enter into and execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the attached Final Order.

21. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA and is authorized to receive service for EPA in the proceeding:

Colleen E. Michuda
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
404-562-9685
michuda.colleen@epa.gov

22. A copy of any documents that the Complainant files in this action shall be sent to the following attorney who represents Respondent and is authorized to receive service in this matter:

Joan Sasine
Bryan Cave LLP
One Atlantic Center, 14th Floor
1201 West Peachtree Street, NW
Atlanta, Georgia 30309
404-572-6647
joan.sasine@bryancave.com

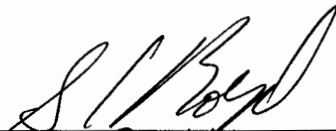
Effective Date

23. This Consent Agreement and Final Order is effective when it is filed with the Regional Hearing Clerk.

CONSENTED AND AGREED TO:

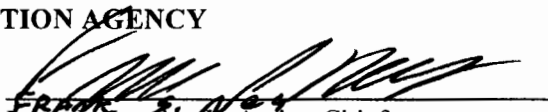
J & J CHEMICAL CO.

Date: 4-19-11


Name: Gerald T. Boyd
Title: President

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 7/13/11


Larry L. Lamberth, Acting Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF)	CWA SECTION 311 CLASS I
)	CONSENT AGREEMENT AND
J & J Chemical Co.)	FINAL ORDER UNDER
190 Trans Tech Drive)	40 C.F.R. § 22.13(b)
Athens, Georgia 30601)	
)	
Respondent)	Docket No. CWA-04-2011-5132(b)

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 28th day of July, 2011.

BY: 
Gwendolyn Keyes Fleming
Regional Administrator

In the Matter of J & J Chemical Co.
Docket Number: CWA-04-2011-5132(b)

CERTIFICATE OF SERVICE

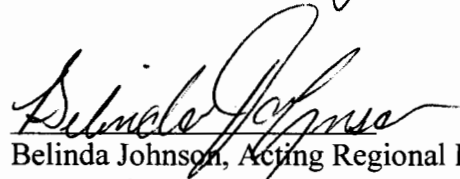
I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the matter of J & J Chemical Co., Docket No. CWA-04-2011-5132(b), on the parties listed below in the manner indicated:

Colleen E. Michuda (Via EPA internal mail)
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

Quantindra Smith (Via EPA internal mail)
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

Joan Sasine (Via certified mail)
Bryan Cave LLP
One Atlantic Center, 14th Floor
1201 West Peachtree Street, NW
Atlanta, Georgia 30309

Dated this 2 day of August, 2011.



Belinda Johnson, Acting Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
(404) 562-9686