

ALLEGATIONS

3.

Respondent admits that MFG Chemical is a corporation organized under the laws of Georgia, with a place of business at 1200 Brooks Road in Dalton, Georgia. The remainder of Paragraph 3 contains legal conclusions and is therefore denied. All allegations not expressly admitted herein are hereby denied.

4.

Respondent admits that it manufactures certain chemicals at its Dalton, Georgia, facility at 1200 Brooks Road and 117 Callahan Road. For purposes of the Complaint the facility where the April 12, 2004 incident occurred is located at 117 Callahan Road. The remainder of Paragraph 4 constitutes legal conclusions and is therefore denied. All allegations not expressly admitted herein are hereby denied.

5.

The allegations set forth in Paragraph 5 constitute legal conclusions and are therefore denied. All allegations not expressly admitted herein are hereby denied.

6.

Respondent admits that Stacy Branch and Drowning Bear Creek are waterbodies in Georgia. The allegations set forth in Paragraph 6 constitute legal conclusions and are therefore denied. All allegations not expressly admitted herein are hereby denied.

7.

Section 311(b)(3) of the Clean Water Act speaks for itself. All other allegations set forth in Paragraph 7 constitute legal conclusions that are therefore denied. All allegations not expressly admitted herein are hereby denied.

8.

Sections 311(b)(3) and (b)(4) of the Clean Water Act and 40 C.F.R. Parts 116 and 117 speak for themselves. All other allegations set forth in Paragraph 8 constitute legal conclusions and are therefore denied. All allegations not expressly admitted herein are hereby denied.

9.

Respondent admits that 3,348 pounds of allyl alcohol entered the atmosphere as a gaseous vapor as a result of a reactor release and further admits that an unknown amount of allyl alcohol entered Stacy Branch and Drowning Bear Creek on April 12, 2004 as a result of firefighting activity at the plant on Callahan Road. The allegation that the entire quantity of 3,348 pounds of allyl alcohol released into the atmosphere also entered Stacy Branch and Drowning Bear Creek is denied. The remaining allegations set forth in Paragraph 9 constitute legal conclusions that are therefore denied. All allegations not expressly admitted herein are hereby denied.

10.

Respondent admits that allyl alcohol has a reportable quantity of 100 pounds under 40 C.F.R. Section 117.3. Clean Water Act Section 311(b)(3) and 40 C.F.R. Part 117 both speak for themselves. All other allegations set forth in Paragraph 10 constitute legal conclusions that are therefore denied. All allegations not expressly admitted herein are hereby denied.

11.

Section 311(b)(6)(B)(ii) of the Clean Water Act and 40 C.F.R. Section 19.4 speak for themselves. All other allegations set forth in Paragraph 11 constitute legal

conclusions that are therefore denied. All allegations not expressly admitted herein are hereby denied.

PROPOSED PENALTY

The first sentence of this unnumbered paragraph constitutes legal conclusions that are therefore denied. The Clean Water Act and EPA regulations cited therein speak for themselves. All other allegations set forth in the second sentence of the Proposed Penalty paragraph constitute legal conclusions that are therefore denied. Respondent admits the allegation in the third sentence of the Proposed Penalty Paragraph that a discharge of allyl alcohol did cause a fish kill in Stacy Creek and Drowning Bear Creek on April 12 and 13, 2004, but denies the remainder of the third sentence. The fourth sentence of the Proposed Penalty paragraph constitutes legal conclusions that are therefore denied. All allegations in the Proposed Penalty paragraph not expressly admitted herein are hereby denied.

ANSWER AND OPPORTUNITY TO REQUEST HEARING

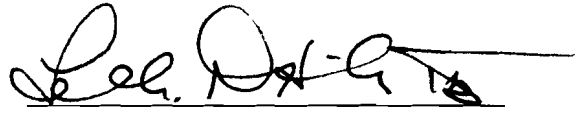
Respondent requests a hearing to challenge the allegations made by Complainant in the Administrative Complaint. Respondent states that the contents of the paragraphs under this heading speak for themselves.

PUBLIC NOTICE

Respondent asserts that the contents of the Public Notice paragraph speak for themselves.

This 16th day of January, 2008.

ALSTON & BIRD LLP

A handwritten signature in black ink, appearing to read "Lee A. DeHihns, III", written over a horizontal line.

Lee A. DeHihns, III
Georgia Bar No. 216259
ATTORNEYS FOR RESPONDENT

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AFFIRMATIVE DEFENSES

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Complainant's claims are barred because the activities have been the subject of an enforcement action by the Georgia Environmental Protection Division pursuant to Consent Order No. EPD-RMP-ERT-4402.

THIRD DEFENSE

Complainant's claims are barred to the extent that they are caused by the acts or omissions of a third party under Section 311(g) of the Clean Water Act.

GENERAL DENIAL

Respondent denies that Complainant is entitled to any relief requested in its Administrative Complaint. Except to the extent admitted, or otherwise specifically responded to herein, Respondent denies each and every allegation alleged in the Administrative Complaint.

WHEREFORE, having fully responded, RESPONDENT prays:

- (a) that judgment be rendered in its favor on each and every count contained in the Administrative Complaint;
- (b) that all costs of the action, including reasonable attorneys' fees be taxed upon Complainant; and
- (c) that this court grant Respondent such other and further relief as the Court deems just, equitable and proper.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the original and one copy of the foregoing Answer on the following parties:

Joan Redleaf Durbin
Associate Region Counsel
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Atlanta, Georgia 30303

Patricia Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency
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Atlanta, Georgia 30303

This 16th day of January, 2008

ALSTON & BIRD, LLP



Lee A. DeHihns, III

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