



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

JUN 27 2007

4APT-PTSB

Certified Mail  
Return Receipt Requested

Ms. Maria Davis  
Quality Control/Special Projects  
Manager  
Bell Performance, Inc.  
1340 Bennett Drive  
Longwood, FL 32750

SUBJ: Bell Performance, Inc.  
Consent Agreement and Final Order  
Docket No.: TSCA-04-2007-2731(b)

Dear Ms. Davis:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter that has been filed with the Regional Hearing Clerk and served as required in the Consolidated Rules of Practice, 40 CFR § 22.6. Please make note of the provisions in Section V of the CAFO, with respect to payment of the assessed penalty, which is due within 30 days from the effective date of the CAFO.

Also enclosed, please find a copy of a document entitled "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 Securities and Exchange Commission (SEC) any environmental enforcement actions taken by EPA.

If you have any questions, please contact Verne George of the EPA Region 4 staff at (404) 562-8988.

Sincerely,

A handwritten signature in cursive script that reads "Joanne Benante".

Joanne Benante  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF: )

**Bell Performance, Inc.** )

Respondent. )  
\_\_\_\_\_ )

) Docket Number: *TSCA-04-2007-2731(b)*

RECEIVED  
EPA REGION 4  
2007 JUN 27 AM 8:45  
HEARING CLERK

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified in 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Bell Performance, Inc. (hereinafter, "Respondent").

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## **II. Preliminary Statements**

3. Pursuant to Section 15 of TSCA, 15 U.S.C. § 2614, it is unlawful for any person to: (1) fail or refuse to comply with any rule or order promulgated pursuant to Sections 4, 5, 8, 12 or 13 of TSCA (15 U.S.C. § 2603, § 2604, § 2607, § 2611 or § 2612); (2) use for commercial purposes a chemical substance or mixture that the person knew or had reason to know was manufactured, imported, processed, or distributed in commerce in violation of TSCA Section 5, 15 U.S.C. § 2604; (3) fail to maintain records, submit reports or information, or permit access to or allow copying of records as required by TSCA; and (4) refuse to permit entry or inspection as authorized by Section 11 of TSCA, 15 U.S.C. § 2610. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$27,500 for each such violation, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19. For a violation occurring after March 15, 2004, a penalty of up to \$32,500 may be assessed. Each day a violation continues may constitute a separate violation.

4. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994.

5. Complainant will file the original non-confidential CAFO with the Regional Hearing Clerk and a copy will be mailed to the Respondent. To determine the confidential business information (CBI) that was deleted [CBI deleted] from this CAFO, Complainant or Respondent should refer to the EPA's Show Cause Letter that contain CBI and dated January 26, 2007.

## **III. Specific Allegations**

6. On June 14, 2006, an authorized agent of the EPA, Region 4 conducted an inspection at Respondent's place of business pursuant to Section 11(a) of TSCA, 15 U.S.C. § 2610(a).

7. Respondent owns and operates a chemical processing and distribution business located at 1340 Bennett Drive, Longwood, Florida.

8. Respondent is an exporter as the term is defined in 40 C.F.R. § 707.63(b).

9. Respondent exported a chemical substance that was subject to TSCA Section 12(b).

10. On [CBI deleted] and [CBI deleted], Respondent exported a shipment of [CBI deleted] hereinafter referred to as Mixture A to [CBI deleted] and [CBI deleted].

11. Mixture A contained [CBI deleted] hereinafter referred to as Chemical A.

12. Chemical A is subject to a rule promulgated at 40 C.F.R. § [CBI deleted]

13. Pursuant to 40 C.F.R. § [CBI deleted], Chemical A is subject to the Export Notification Requirements set forth at 40 C.F.R. § 707 Subpart D.

14. Pursuant to 40 C.F.R. § 707.65(a), Respondent is required to notify the EPA of their export or intended export of each regulated substance.

15. As of the date of the TSCA Inspection (June 14, 2006), Respondent did not submit an Export Notice to the EPA for Chemical A.

16. Respondent violated 40 C.F.R. § 707.65(a)(3) by failing to submit an Export Notice to the EPA for Chemical A within seven days of forming the intent to export or on the dates of export.

#### **IV. Consent Agreement**

17. For the purposes of this CAFO, Respondent admits to the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

18. Respondent waives its right to a hearing on the allegations contained herein.

19. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

20. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with the export regulations promulgated pursuant to TSCA Section 12 (TSCA, 15 U.S.C. § 2611).

21. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16 of TSCA, for the specific violations alleged herein. Except as specifically provided in this CAFO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is Respondent's responsibility to comply with said laws and regulations.

22. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of TSCA.

#### V. Final Order

23. Respondent is assessed a civil penalty in the amount of ***Thirteen Thousand, One Hundred Fifty Two Dollars and Ninety cents (\$13,152.90)***, which is to be paid within thirty (30) days of the effective date of this CAFO.

24. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to "Treasurer, United States of America," to the following address:

U.S. Environmental Protection Agency  
Cincinnati Accounting Operations  
Mellon Lockbox 371099 M  
Pittsburgh, PA 15251-7099

Wire Transfer of U.S. dollars must be wired to the following address:

Mellon Bank  
SWIFT address = MELNUS3P  
ABA 043000261  
Account 9109125  
22 Morrow Drive  
Pittsburgh, PA 15235

**The check shall reference on its face the name and the Docket Number of the CAFO.**

25. 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 CAFO, to the following persons at the following addresses:

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

Verne H. George  
PCB and Chemical Products  
Management Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

Saundi Wilson  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960.

26. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

27. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge of six percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

28. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

29. This CAFO shall be binding upon the Respondent, its successors and assigns.

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

Verne H. George  
PCB and Chemical Products  
Management Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-8988

31. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

**VI. Effective Date**

32. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO: Bell Performance, Inc.**

By: OLA R. WILLIAMS Date: 3/29/07

Name: OLA R. WILLIAMS (Typed or Printed)

Title: PRESIDENT (Typed or Printed)

**United States Environmental Protection Agency**

By: Henry H. Gant Date: 6/19/07

Director  
Air, Pesticides and Toxics  
Management Division  
Region 4

**APPROVED AND SO ORDERED** this 26<sup>th</sup> day of June, 2007

By: Susan B. Schub

Susan B. Schub  
Regional Judicial Officer



CERTIFICATE OF SERVICE

I hereby certify that I have this day filed a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of: Bell Performance, Inc., Docket No. TSCA-04-2007-2731(b), and served same on the date shown below, to the parties listed in the manner indicated:

Verne George  
U.S. EPA, Region 4  
Air, Pesticides, and Toxics  
Management Division  
61 Forsyth St., SW  
Atlanta, GA 30303

(Via EPA's internal mail)

Saundi Wilson  
U.S. EPA, Region 4  
Office of Environmental Accountability  
61 Forsyth St., SW  
Atlanta, GA 30303

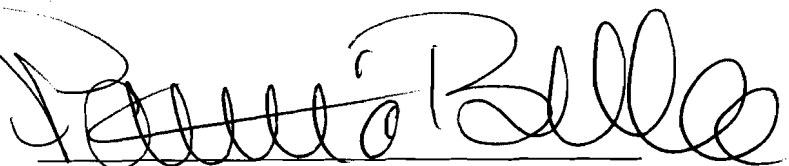
(Via EPA's internal mail)

(Respondent)

(Via Certified Mail, Return Receipt  
Requested)

Ms. Maria Davis  
Quality Control/Special  
Projects Manager  
Bell Performance, Inc.  
1340 Bennett Drive  
Longwood, FL 32750

Date: 6-27-07



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**

**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 6/21/07  
(Name) (Date)

in the OEA, OATGL at (404) 562-9504  
(Office) (Telephone Number)

- |  |  |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree<br>USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement<br>FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree<br>DOJ COLLECTS      | <input type="checkbox"/> Oversight Billing - Cost Package required:<br>Sent with bill              |
| <input type="checkbox"/> Other Receivable                                      | <input type="checkbox"/> Not sent with bill  |
| <input type="checkbox"/> This is an original debt                              | <input type="checkbox"/> Oversight Billing - Cost Package not required                             |
|  | <input type="checkbox"/> This is a modification  |

PAYEE: Bell Performance, Inc.  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 13,152.90  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: TSCA 04 2007 2731 (6)

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: \_\_\_\_\_

If you have any questions, please call: \_\_\_\_\_ of the Financial Ma

**DISTRIBUTION:**

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page should be mailed to:

- |  |                       |
|--|-----------------------|
| 1. Debt Tracking Officer<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office |
|  | 3. Designated Pr      |

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the fr

- |                           |                  |
|---------------------------|------------------|
| 1. Originating Office     | 3. Designated Pr |
| 2. Regional Hearing Clerk | 4. Regional Coun |

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Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Price		

Sent To: Ms. Maria Davis  
Quality Control/Special Projects Manager  
Bell Performance, Inc.  
1340 Bennett Drive  
Longwood, FL 32750

Street, A or PO Box  
City, State

PS Form 3849, June 2006

7005 2570 0001 8631 0667