



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

JAN 11 2012

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Douglas A. Henderson  
Troutman Sanders LLP  
600 Peachtree Street  
Suite 5200  
Atlanta, Georgia 30308

RE: Georgia Power Company  
Consent Agreement and Final Order  
Docket No. CERCLA-04-2012-2021(b)

Dear Mr. Henderson:

Enclosed please find an executed copy of the Consent Agreement and Final Order (CAFO) that resolves the Comprehensive Environmental Response, Compensation, and Liability Act matter (Docket No. CERCLA-04-2012-2021(b)) involving Georgia Power Company. The CAFO was filed with the Regional Hearing Clerk, as required by 40 C.F.R. Part 22 and became effective on the date of the filing.

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 any environmental enforcement actions taken by the Environmental Protection Agency. 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 Ms. Deanne Grant at (404) 562-9291.

Sincerely,

A handwritten signature in black ink, appearing to read "Caron B. Falconer".

Caron B. Falconer  
Chief  
EPCRA Enforcement Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF )  
 )  
Georgia Power Company )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket Number: CERCLA-04-2012-2021

HEARING CLERK

2012 JAN 11 AM 8:13

RECEIVED  
EPA REGION IV

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609 and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 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 Georgia Power Company.

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18(b) 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) and 22.18(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The authority to take action under Section 109 of CERCLA, 42 U.S.C. § 9609 is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under CERCLA to the Regional Administrators by EPA Delegation 14-31 dated May 11, 1994. The Regional Administrator, Region 4, has redelegated to the Director, Air, Pesticides and Toxics Management Division, the authority under CERCLA by EPA Region 4 Delegation 14-31 dated March 8, 1999, and updated August 6, 2004. Pursuant to these delegations, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

4. Respondent, Georgia Power Company does business in the State of Georgia.

5. Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

6. Respondent has a "facility" as that term is defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

7. Respondent's facility is located at 5551 South Cobb Drive, Smyrna, Georgia 30080.

8. Respondent is an "owner or operator" of the facility as that term is defined by Section 101(20)(A) of CERCLA, 42 U.S.C. § 9601(20)(A).

### III. EPA's Allegation of Violation

9. Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), required the Administrator of EPA to publish a list of substances designated as hazardous substances which, when released into the environment, may present substantial danger to public health or welfare or the environment and to promulgate regulations establishing the quantity of any hazardous substance the release of which was required to be reported under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a). EPA has published and amended such a list, including the corresponding reportable quantities (RQ) for those substances. This list which is codified at 40 C.F.R. Part 302, was initially published on April 4, 1985 (50 Fed. Reg. 13474) and is periodically amended.

10. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and the regulations found at 40 C.F.R. § 302.6, require a person in charge of a facility or vessel, as soon as he or she has knowledge of a release of a hazardous substance from such facility or vessel in an amount equal to, or greater than the RQ, to immediately notify the National Response Center (NRC).

11. Respondent was in charge of the facility during the relevant period described below.

12. Sulfuric acid is a "hazardous substance" as that term is defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), with an RQ of 100 pounds, as specified in 40 C.F.R. § 302.4.

13. EPA alleges that, on February 2, 2011, Respondent had a release of sulfuric acid above the RQ at the facility.

14. EPA alleges that Respondent violated the notification requirements of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), by failing to immediately notify the NRC as soon as Respondent had knowledge of the release of sulfuric acid in an amount equal to or greater than its RQ at Respondent's facility and is therefore subject to the assessment of penalties under Section 109 of CERCLA, 42 U.S.C. § 9609.

15. Pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609, and 40 C.F.R. Part 19, EPA may assess a penalty not to exceed \$37,500 for each violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), that occurred after January 12, 2009. Each day a violation of Section 103 continues constitutes a separate violation. Civil penalties under Section 109 of

CERCLA, 42 U.S.C. § 9609, may be assessed by an Administrative Order.

#### IV. Consent Agreement

16. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations and legal conclusions set out above.

17. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.

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

19. Respondent agrees to complete the Supplemental Environmental Project (SEP) set forth in this CAFO.

20. Respondent certifies that as of the date of its execution of this CAFO, its facility is in compliance with all relevant requirements of CERCLA.

21. Compliance with the CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States other than as expressed herein. Neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

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 CERCLA.

#### V. Final Order

23. Respondent shall pay a civil penalty of FOUR THOUSAND THREE HUNDRED TWENTY THREE DOLLARS (\$4,323) for the CERCLA violation which shall be paid within thirty (30) days of the effective date of this CAFO.

24. Respondent shall pay the CERCLA civil penalty by forwarding a cashier's or certified check, payable to "EPA Hazardous Substance Superfund" to one of the following addresses:

BY MAIL

US Environmental  
Protection Agency  
Superfund Payments  
Cincinnati Finance Center  
P.O. Box 979076  
St. Louis, MO 63197-9000

BY OVERNIGHT

U.S. Bank  
Government Lockbox 979076 US  
EPA Superfund Payments  
100 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
(314) 418-1028

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, GA 30303

Deanne D. Grant  
U.S. EPA, Region 4  
Air, Pesticides & Toxics Management Division  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

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

26. For the purposes of state and federal income taxes, 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.

VI. Supplemental Environmental Project

27. Respondent shall undertake and complete, in accordance with the approved SEP in this matter, the following Emergency Planning and Preparedness project within 60 days of the effective date of this CAFO. Cash donations shall not be used to satisfy the terms and conditions of this CAFO. Company shall expend not less than SEVENTEEN THOUSAND SEVEN DOLLARS (\$17,007) for the purchase and donation of equipment to Cobb County Fire & Emergency Services as outlined below:

1 RT 2-Piece Litter Pre-Rig  
4 Technical Rescue Rigging Plate  
1 8" Duct Coupler  
12 Rescue Tech 2.5" Single PMP  
2 Kootenay Knot Passing Carriage Pulley  
4 Reactor "Y" Rope Access Twin Leg Lanyard  
1 8" Duct for Pamfan UB20  
12 Delta Links  
16 Galvanized Steel Widegate rapid links  
4 Petzl ascension ascender (left)  
4 Petzl ascension ascender (right)  
24 Reflective helmet labels  
8 RescueTech Rescue Ascender  
4 Petzl Navaho Bod Full Body Harness (S/M)  
6 Petzl Navaho Bod Full Body Harness (L/XL)  
4 RescueTech Rescue Rappel Rack  
1 Ramfan UB20 Manhole Entry Device System  
6 RT Personal CSR/Transfer Kit  
12 Petzl Vertex Vent II Helmet  
12 Petzl Vizir  
4 MPD, 13MM RED, CMC #333000  
12 Petzl Rescue Headlamp  
4 Pulley Doudle Swivel, CMC #300432  
4 Pulley, PMP Swivel, CMC #300430  
62 Aluminum, Caribiner, PS Auto Red, CMC #300233

28. Respondent agrees to the following language concerning the SEP:

"Respondent certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee, or other mechanism for providing federal financial assistance whose financial performance period has not yet expired."

29. Respondent agrees that EPA may conduct an inspection at Respondent's facility at any time in order to confirm that the SEP is being undertaken in conformity with the representations made herein.

30. No later than thirty (30) calendar days after the completion of the project, Respondent shall submit to EPA a SEP Completion Report. The Report shall be sent to the

EPCRA Enforcement Section, to the attention of Deanne D. Grant at the address provided above. The Report shall include the following:

(a) an affidavit from an authorized company official, attesting that the SEP has been completed or explaining in detail any failure to complete it; and

(b) copies of appropriate documentation, including invoices and receipts, showing a total expenditure of SEVENTEEN THOUSAND SEVEN DOLLARS (\$17,007), or greater, was spent to purchase and donate equipment to the Cobb County Fire & Emergency Services as described in paragraph 27.

Upon request, Respondent shall send EPA any additional documentation requested by EPA.

31. For Federal Income Tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

32. Respondent certifies that, as of the date this CAFO is signed, it is not required to perform any part of the SEP by any federal, state or local law, regulation, permit or order, or by any agreement or grant. Respondent further certifies that, as of this date, it has not received and is not negotiating to receive, credit for any part of the SEP in any other enforcement action of any kind.

33. Any public statement, oral or written, by Respondent making any reference to the SEP shall include the following language:

"This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act."

34. If Respondent fails to timely and fully complete any part of the SEP, including failing to spend the minimum amount of SIXTEEN THOUSAND TWO HUNDRED NINE DOLLARS (\$16,209) for the SEP, Respondent shall pay to the United States a stipulated penalty of the difference between \$16,209 and the initial cash penalty paid to the U.S. Treasury. For purposes of this paragraph, whether Respondent has fully and timely completed the SEP and whether Respondent made a good faith effort to do so shall be in the sole discretion of EPA.

35. If Respondent fails to timely submit a SEP Completion Report as required by this CAFO, Respondent shall pay to the United States a stipulated penalty of \$100 for each calendar day the report is late.

36. Respondent shall pay any stipulated penalties that accrue under this CAFO within 15 calendar days of the receipt by Respondent of written demand from EPA for such penalties. Such penalties shall be paid in accordance with the procedures set forth above for the payment of the civil penalty.

37. For Federal Income Tax purposes, Georgia Power Company agrees that it will

37. For Federal Income Tax purposes, Georgia Power Company agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

38. 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 effective date 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 will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

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

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

41. The following individual is authorized to receive service for EPA in this proceeding:

Caron B. Falconer  
U.S. EPA, Region 4  
Air Pesticides & Toxics Management Division  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-8451

42. 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.

**THIS SECTION INTENTIONALLY LEFT BLANK**



VII. Effective Date

43. 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:

Georgia Power Company

By: Tanya Blalock (Signature) Date: 12/15/11  
Name: Tanya Blalock (Typed or Printed)  
Title: General Manager Environmental Affairs (Typed or Printed)

U.S. Environmental Protection Agency

By: Beverly H. Banister (Signature) Date: 11-16-11  
Beverly H. Banister, Director  
Air, Pesticides & Toxics  
Management Division  
Region 4

APPROVED AND SO ORDERED this 10<sup>th</sup> day of January, 2011.

Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer

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 Georgia Power Company, Docket Number: CERCLA-04-2012-2021(b), on the parties listed below in the manner indicated:

Caron B. Falconer  
U.S. EPA, Region 4  
61 Forsyth Street  
Atlanta, GA 30303

(Via EPA's internal mail)

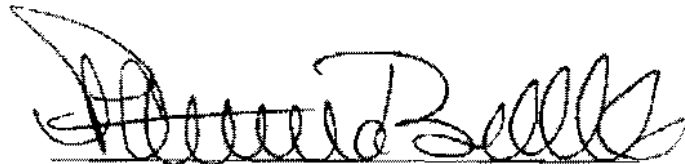
Robert Caplan  
U.S. EPA Region 4  
Office of Environmental Accountability  
61 Forsyth Street  
Atlanta, GA 30303

(Via EPA's internal mail)

Douglas A. Henderson  
Troutman Sanders LLP  
600 Peachtree Street, Suite 5200  
Atlanta, Georgia 30308

(Certified Mail - Return Receipt Requested)

Date: 1-11-12



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