UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN RE	)	
	)	RCRA-84-54-R
SANDOZ, INC.	)	
	)	
	)	

1. Resource Conservation and Recovery Act - Penalty Assessment - Where Agency penalty computation rationale is at odds with the facts, a reduction of the proposed civil penalty is warranted.

2. Resource Conservation and Recovery Act - Penalty Assessment - Where Respondent, in an attempt to comply with goundwater monitoring requirements, drills four wells and engages in sampling and analysis thereof, it should not be treated as one who made no effort to comply in any way.

3. Resource Conservation and Recovery Act - Penalty Assessment - Where the Agency's assumptions in calculating economic benefit of noncompliance are found to be without factual basis, an adjustment of that element is necessary.

Appearances:

Barry P. Allen, Esquire
Kirk R. Macfarlane, Esquire
U.S. Environmental Protection Agency
Atlanta, Georgia
For the Complainant

Jonathan P. Pearson, Esquire
Ralph M. Mellom, Esquire
Ogletree, Deakins, Nash, Smoak and Stewart
Columbia, South Carolina
For the Respondent

INITIAL DECISION

This proceeding under § 3008 of the Solid Waste Disposal Act, as amended, (RCRA) (42 U.S.C. § 6928) was commenced on September 26, 1984 by the issuance of a compliance order and notice of opportunity for hearing by the Director of the Air and Water Management Division, Region IV, EPA, charging Respondent, Sandoz, Inc., with violations of the Act and regulations and corresponding sections of the South Carolina administrative code.

The complaint proposed a penalty in the amount of $53,478 against Respondent. The Respondent answered denying the violations with the exceptions of the groundwater monitoring violation and requested a hearing.

At the Hearing, the Agency advised that they would only seek a penalty for the groundwater monitoring violation and would not seek penalties for the other two violations alleged in the complaint. The amended proposal by the Agency, as described at the beginning of the Hearing, was a penalty in the amount of $36,928.

Following a rather lengthy pretrial exchange and negotiation activity, a Hearing was held on this matter in Columbia, South Carolina on July 16, 1985. Following the Hearing and the availability of the transcript, the parties filed their respective findings of fact and conclusions of law and supporting briefs. The Court has carefully considered the entire record and the filings of the parties and any conclusions or suggestions made therein inconsistent with this decision are hereby rejected.

Factual Background

Sandoz Chemical Corporation's Martin Facility manufactures die stuffs. It is located on a 4,600 acre site on the Savannah River approximately 45 miles downstream from Augusta, Georgia. This site was apparently selected by the Respondent in the mid-1970s because the hydrogeological conditions under-

lying the site were thought to be ideal for a land application waste disposal system such as the one utilized at the facility. The waste system utilized by the Respondent was designed by them in the mid-1970s, tested extensively and approved by the South Carolina Department of Health and Environmental Control prior to its installation. It should be noted that the wastewater system immediately above described is governed by a NPDES permit and, for the most part, does not involve the hazardous waste aspects of the plant which are the subject of this Hearing.

The chemical wastewater system at the plant is extensive. Waste leaving the manufacturing facility travels by pipe to an equalization basin for the purpose of allowing acid and alkaline waste to neutralize one another. The primary hazard characteristic of chemical wastewater generated by the Martin Facility is pH or corrosivity. The pH of the waste generated by the plant is less than 2 approximately 15 per cent of the time. pH is the only characteristic of the waste which subjects it to regulation under RCRA. The equalization basin, which is the regulated facility, is a one million gallon impoundment made of highly compacted clay with a 30 mil hypalon liner. The waste is initially pumped to the equalization basin to allow acid and alkaline waste to neutralize each other without additional treatment. However, further neutralization is usually necessary. After the waste leaves the equalization basin it is pumped to a neutralization station where lime slurry is added to bring the pH of the material up to about 9. After the neutralization station, the waste is treated in a fashion which is not relevant to this proceeding.

In an attempt to comply with RCRA regulations, the company originally installed four wells adjacent to the equalization basin area. Wells 23, 24, and 25, whose location appear on Resp. Exhibit No. 1, are located downgradient from the equalization basin, while Well 26 was upgradient. The RCRA regula-

tions require a minimum of four monitoring wells around a regulated unit. The purpose of an upgradient well, that is the one located in the opposite direction from the groundwater flow, is to collect background data. The purpose of the downgradient wells is to intercept possible contamination. Data from the upgradient well is compared against data from the downgradient wells to see if there has been contamination. Wells 23 and 24 were sampled in March of 1982, and Wells 25 and 26 were first sampled in September of 1982. Trace levels of water were detected in Wells 25 and 26 between September 1982 and October 1983. Between January 1984 and July 1984, mud and trace levels of water were found in Well 25; only mud was found in Well 26 during this same period. The Respondent concedes that two of the wells (i.e., 25 and 26) were inadequate for the purposes for which they were installed.

The Agency expert witness who testified on this situation was of the opinion that, inasmuch as the upgradient well was nonfunctional, the system as installed was therefore incapable of providing the information which the regulations contemplate. It should be noted that the South Carolina regulations are practically identical to their corresponding counterpart regulations in the Federal Code, specifically those found in 40 C.F.R. Part 265. For this reason it is the Agency's position that even though the company had drilled four wells purportedly in the locations required by the regulations, since the upgradient well and one of the downgradient wells were nonfunctional, no usable information was able to be obtained and therefore the groundwater monitoring program instituted by the Respondent company was totally inadequate. The Respondent takes the position that since the great number of wells existing on its premises, which were drilled for purposes other than RCRA compliance, provide sufficient information so that the pur-

poses of the Act can in fact be achieved even though technically the system was not functioning in the precise way that the regulations contemplated.

The record is also undisputed in that the Respondent failed to sample and analyze for the required number of parameters which the South Carolina regulations and their Federal counterparts require. Specifically the analysis done by the Respondent was for alkalinity, conductivity, total organic carbon, pH, chloride, sulfate, and nitrogen. The minimum analysis required by the regulations were specific conductivity, temperature, total dissolved solids, chloride, pH, dissolved organic compound, and two principle metals. A comprehensive analysis for the seven characteristics just mentioned plus six others was required to be performed unless the facility can demonstrate to the regulating agency why such analysis should be deleted. The record does not reveal that any such demonstration was made to the State agency nor approved by them.

The Respondent takes the position that since the primary reason why the stabilization basin is governed by RCRA has to do with the pH, and since they were, in fact, monitoring and sampling for pH that should satisfy the regulations. The reasons why they failed to monitor and sample for the other parameters was that they misunderstood the instructions given to them by the State agency and felt that they were, in fact, sampling and analyzing for all the parameters that the law required. The genesis of this confusion seems to revolve around the fact that for many years the facility had been dealing with the industrial waste portion of the State agency and had been in close contact with the personnel of that department and having been assured over the years that they were doing what the law required, they did not realize that as to the stabilization basin, at issue, there were in fact other requirements over and above those that they had been testing for in regard to

their industrial waste treatment facilities. Given the record in this case which indicates that the Respondent was on several occasions advised by the appropriate State officials of the deficiencies of their monitoring and sampling program the Court does not place a great deal of weight on this defense. While it is true that the Respondent's facility had been dealing with a particular portion of the State regulatory apparatus prior to the enactment of RCRA, the Respondent is not a small corporation and has at its disposal a sophiscated and knowledgable contingent of employees who, by their own admission, knew of the requirements and the existence of RCRA prior to the bringing of this action.

Inasmuch as the basic facts involved in this case are not in dispute, the primary issue before the Court in this case is the appropriateness of the penalty proposed to be assessed by the Agency. The Agency, at the outset of the Hearing, made a motion to exclude from the record any testimony or evidence concerning what the Respondent did to bring itself into compliance following the issuance of the complaint in this matter. It took the position that anything done after the bringing of the complaint is irrelevant for purposes of establishing a penalty since the penalty was calculated according to the Agency penalty policy and reflected the facts as they existed up to the date of the issuance of the complaint and compliance order and that anything the company did thereafter is not pertinent to the penalty determination.

The Respondent, on the other hand, argues that it had good faith reasons to believe prior to the 1984 inspection, which gave rise to the issuance of the complaint, that it was in compliance with all of the State and Federal regulations concerning a RCRA treatment facility. That following their notification of the fact that problems existed with their system, they

immediately hired an outside consultant and expended a great deal of money to drill a substantial number of wells and take whatever additional steps necessary to bring their facility into compliance. The record reflects that at the time of the hearing, the Respondent was in compliance with all groundwater monitoring requirements. The Respondent takes the position that its quick and extensive actions taken following their notification of the violations, should be considered in mitigation of any penalty which is ultimately to be assessed in this case. The Court overruled the Complainant's motion to exclude this evidence and such evidence has been considered in the rendering of this Initial Decision.

The Penalty Issue

The regulations which govern these proceedings state that the burden is upon the Agency to prove that the penalty which it proposed was properly calculated and that the facts in the case support the underlying rationale used by the Agency when utilizing the penalty policy recently promulgated by the Agency. The task before the Court is to decide: (1) whether or not the penalty proposed by the Agency was proper given the facts which it had before it at the time the complaint was issued; and (2) whether or not any events or facts either in existence at the time the Agency calculated the penalty or which occurred subsequent thereto have any bearing on a possible mitigation of the penalty initially proposed by the Agency.

In this regard the Agency witness who calculated the penalty included in the complaint provides a crucial piece of testimony relevant to the first above-identified issue. This witness testified that he first evaluated the file before him, which consisted primarily of the inspection reports given to the Agency by the State inspectors and based thereon determined the threshold violation. In this case, the Agency determined that, for all practical

purposes, the Respondent had no groundwater monitoring program and reference to the final penalty policy suggests that this is to be considered a major violation both as to extent of deviation from the requirements and as to the potential for harm. Having made that determination, the witness referred to the penalty assessment matrix which appears on page 10 of the penalty policy and determined that the range of such penalty is from $20,000 to $25,000. Consistent with Agency policy, he chose the mid-point of that range and assigned a dollar amount of $22,500 for this violation. The original penalty calculation sheet, which appears as Complainant's Exhibit No. 6, shows that in addition to this there was an upward penalty adjustment of 25 per cent for degree of willfulness and/or negligance and an additional 25 per cent upward adjustment for history of noncompliance. In its opening statement, counsel for the Complainant advised the Court that it had decided to eliminate these two upward factors from its calculations. The Agency witness then went on to describe the next step in the penalty calculation procedure which is to assess a number which represents the economic benefit of noncompliance. In this case, the Agency witness testified that he had calculated this number of be $14,428. In describing how this exercise is performed, the witness made reference to the formula which appears in the penalty policy beginning on page 29 thereof. His testimony indicated that he utilized the exact figures given in the example set out in the penalty policy, having determined that they were appropriate to this case and came up with the figure of $14,428 which is precisely the number that appears in penalty policy in the example given for failure to have a groundwater monitoring system. In fact, the penalty sought here is exactly that given in the example, i.e., adding $22,500 to $14,428 arriving at a total of a proposed penalty of $36,928.

The example given in the penalty policy is broken down into several discrete costs as follows: cost of the groundwater quality assessment plan outline and groundwater sampling and analysis plan - $2,000; cost of wells - $9,000; cost of sampling - $1,640; cost of analysis - $11,360; cost of the report for the system needed - $3,200; totalling $27,200. The second year costs, which is the cost of sampling and analysis - $1,900. The penalty policy then describes how one calculates the economic benefit component by applying a formula to the cost figure identified which involves avoided costs, delayed costs, interest rates and so forth. These figures which appear in the penalty policy are, of necessity, precisely those calculated by the Agency in this case, since the Agency employee who did the calculation used the exact numbers for all of the factors identified above in making his calculation. Obviously, simple arithmetic would require that the end result be identical to that set forth in the example.

Respondent, of course, examined this witness at some length and took the position that the numbers utilized by the Agency in applying the calculations in the penalty policy were improper under the circumstances of this case and that, therefore, the ultimate number proposed by the Agency is seriously overstated. The basis of the Respondent's argument is several fold. First, that the situation described in the penalty policy does not match the facts in this case. The example given in the penalty policy which is stated on page 29 thereof involves a company which had failed to implement a groundwater monitoring system and had taken no steps to implement such a system in that it failed to install monitoring wells, to obtain and analyze samples and no outline of a groundwater quality assessment had been prepared, no records had been kept or submitted to the Agency. In that event, the penalty policy

suggests that even though a variety of violations technically occured, the gravamen of the situation is that the facility had no groundwater monitoring system and therefore only one penalty should be assessed in the complaint. The Respondent argues that that situation is inappropriate in regard to its facility since it did in fact make a good faith attempt to install and operate a groundwater monitoring system since it drilled the required four wells located in the positions required by the regulations and did sample and analyze these wells and report the results of such analysis to the appropriate State agency. The Agency's reply to that argument is that, although the facility did drill some wells and sample and monitor for various parameters inasmuch as the system they installed was fatally flawed due to the failure of the upgradient well to provide any data, this resulted in the situation contemplated by the penalty policy, that is, no groundwater monitoring system was in existence.

The Respondent also argued that the Agency's calculation of the economic benefit component of the penalty was also seriously flawed in that the cost which the Agency adopted in making the calculation in regard to that factor were totally inaccurate and bore no relationship to the situation as it exists in this case. In support of that argument, the Respondent produced evidence to the effect that they have on their premises an in-house well driller which drills all of the wells that the facility has on its premises (in excess of 100 wells) and that it keeps on hand all the necessary piping, fittings and other paraphernalia associated with a well and therefore the initial costs calculated by the Agency were totally inaccurate. In this regard, the Agency argues that the Respondent has the duty to provide any information that it has on cost to the Agency and that in this regard it failed to do so. The Agency further urges that the numbers suggested by the example of the penalty

policy are based on a nationwide investigation and represents an accurate assessment of those portions of the groundwater monitoring program which are identified above, i.e., the cost of drilling the wells, the cost of sampling and analysis, etc.

The Respondent further argues that it should be given some credit for the cooperative attitude that it showed and the speeed and efficiency which with it corrected the problems identified in the complaint as soon as they were "officially" brought to their attention.

Discussion and Conclusion

I will discuss the initial portion of the penalty calculated by the Agency first. As discussed above, the Agency took the position that even though the Respondent had in fact drilled wells and done sampling and analysis they would, for purposes of calculating a penalty, be placed in the same category as a facility owner who had done nothing whatsoever in the area of installing and operating a groundwater monitoring program. Although this approach certainly simplifies the Agency's mathmetics it does not appear to me to represent a fair and equitable way of viewing the facts as they exist in this case. While it is unquestionably true that the groundwater monitoring system which the Respondent installed and operated was not able to produce the kind and quantity of data which the regulations envision, it does nevertheless represent a good faith attempt on the part of the Respondent to abide by the regulations applicable to its facility.

The record also indicates that even absent a viable upgradient well the Respondent was able, on several occasions, to detect leaks from its stabilization pond and to that extent the system did provide information and data which an otherwise properly designed and operated program would reveal. Upon cross-examination by the Court, the Agency witness who calculated the proposed

penalty in this matter, suggested that the Respondent in drilling the original wells which it felt were required under the regulations in some fashion exhibited bad faith and the witness seemed to take the position that no credit should be given to the Respondent for the drilling of the wells which they knew or should have known would not provide the data which the regulations require. This notion seems to me to be irrational in that I can not envision a facility owner deliberately spending time, money and effort to drill useless wells. Consequently, I find this approach on the part of the Agency to be without foundation.

Reviewing the language of the penalty policy and applying those directions to the case at issue here one needs to look at page 7 of the penalty policy which describes how one goes about choosing the proper categories in the penalty matrix for the purpose of calculating a proposed penalty. On page 6 of the penalty policy the document suggests that in determining the potential for harm one should ask questions, such as: what is the quantity of waste, is human life or health potential threatened by the violation, are animals potentially threatened by the violation, and are any environmental media potentially threatened by the violation. In the instant case the quantity of the waste involved is rather high, however, the way in which the impoundment was constructed provides an above average threshold of protection and although there are some potential for threats to the environment I would view such violations as moderate rather than major. The policy suggests that if the violation imposes a significant likelihood of exposure to hazardous wastes, then the degree of potential harm should be viewed as moderate. As to the extent of deviation from the requirements, the policy suggests that a violator should be viewed as being in the major category if the deviation from the requirements is to such an extent that there is substantial non-

compliance. The moderate category is defined as one where the violator significantly deviates from the requirements of the regulation but some of the requirements are implemented as intended. This example seems to more accurately reflect the facts in this case since the Respondent did in fact drill the required four wells and did engage in sampling and analysis of the materials in the wells even though they did not sample for the full panoply of parameters which the regulations require. In view of all of the above, I am of the opinion that the proper category in which to place the Respondent's conduct in regard to the groundwater monitoring violation is that of moderate for potential and moderate for deviation. Referring then to the penalty assessment matrix, one finds that such a characterization would suggest a range of penalties from $5,000 to $7,999. Adopting the Agency policy of choosing the mid-point of the suggested range, one comes up with a suggested penalty of $6,500. In this case, I find that penalty to more accurately reflect the facts in this case and so adopt it.

The next item to be examined is the Agency's rationale and calculations on the economic benefit of non-compliance. This aspect of the penalty policy is new with this latest version of the Agency's policy and it states that an economic benefit component should be calculated and added to the gravity base penalty when a violation results in significant economic benefit to the violator. The policy then goes on to give examples of when such economic benefit analysis should be performed. Groundwater monitoring is at the top of the list. The policy then goes on to state that in general Agency personnel need not calculate the benefit component where it appears that the amount of that component is likely to be less than $2,500. As indicated there are two types of economic benefit of noncompliance which the Agency needs to examine, one is a benefit from delayed cost and the second is benefit from avoided

cost. Delayed costs are described as those which have been deferred by the violator's failure to comply with the requirements--the violator will eventually have to spend the money in order to achieve compliance and the delayed costs are the equivalent of capitol costs--examples are described as failure to install groundwater monitoring equipment. Avoided costs are expenditures which are nullified by the violator's failure to comply. These costs will never occur and thus the avoided costs are the equivalent of operating and maintenance costs. An example of this would be failure to perform annual and semi-annual groundwater monitoring sampling and analysis. A description of how one should accomplish this calculation is set forth in the penalty policy in some detail giving specific examples including monetary values assigned to the various costs associated with a particular violation. As indicated above, the Agency witness which performed this calculation simply adopted exactly all of the hypothetical costs set forth in the penalty policy down to the last dollar and used those numbers to come up with the final figure which the complaint reflects. For example, the penalty policy suggests a number in the amount of $9,000 to represent the costs of drilling four wells. In the instant case, only two of the four wells drilled by the Respondent needed to be redone and yet the Agency calculated the economic benefit as though four wells would have to be drilled, a conclusion not in keeping with the facts in this case. There is also a figure in the amount of $2,000 associated with the cost of groundwater quality assessment plan outline and groundwater sampling and analysis plan. There is nothing in this record to suggest that the Respondent did not have such a plan and even though the program as actually instituted was less than that which was required, the planning aspect of the requirements of necessity had to have been accomplished. I therefore find that no savings should be associated with that element of the first year

costs and that the costs associated with the drilling of the wells in in this instance unreasonable since the Respondent did all of its own drilling inhouse and at a substantial savings above and beyond the $2,250 per well which the penalty policy suggests is required. The policy suggests a first year savings of $1,640 for the cost of sampling. Sampling in this instance was done, sampling consists of taking a predetermined quantity of material from the well and sending it off for analysis. In this case, the sampling was accomplished and nothing in the record would suggest that it was not. The fact that the Respondent did not analyze for the number of parameters required by the regulations has nothing whatsoever to do with whether or not sampling was done. Since one sample is broken into sufficient parts and subsequently subjected to laboratory analysis to determine the presence of the required parameters, this cost is in my judgement unrealistic. The cost of analysis is described in the policy as $11,360 and the cost of the report for the determining the systems needs is $3,200. Just what that last element involves is not clear but as to the analysis cost the Respondent did in fact expend sums of money to have the samples analyzed and therefore the costs described in the penalty policy is not appropriate here. The second year costs are the costs of sampling and analysis assuming no contamination found which is given at $1,900.

The Agency, at the trial, took the position that it was the responsibility of the Respondent or facility owner to provide the Agency with accurate figures in regard to these costs and that the Agency had no responsibility to determine what the actual costs were in the situation involving a particular facility but rather it is permitted to adopt the national averages described in the penalty policy. I find this position to be unacceptable. How is a Respondent to know that it should be providing cost savings information to

the Agency when it does not know that the Agency is, in fact, making a calculation involving these numbers? The record in this case and in most cases in which I have been involved, suggests that no notice is given to a Respondent that the Agency is in the process of preparing a complaint and, therefore, the Respondent has no opportunity to provide any information at that time which would aid the Agency in calculating a more reasonable penalty. There is nothing in the record further which would suggest that during the settlement negotiations engaged in between the parties the Agency asked for any information concerning these costs by the Respondent and the Respondent was not advised until some time thereafter that such figures would have been of any value to the Agency since it did not know that such a calculation had been accomplished. Inasmuch as the regulations and the rules of procedure applicable to these proceedings place the burden on the Agency of proving its proposed penalty was properly calculated and based upon the evidence in the case, I find its position in this regard to be at odds with those provisions. The record in this case is clear that the Agency made no effort whatsoever to obtain cost figures which might be more appropriate to the situation involving this Respondent either as to local practice or the fact that, in this case, the Respondent did its well drilling inhouse using a full time employee who is a state licensed well driller. Even in the face of the above-described information concerning this particular Respondent, the Agency witness refused to entertain the notion of re-assessing his evaluation and stuck to his original computations, in part, because the Respondent in some way had demonstrated bad faith by drilling wells which later turned out to be unusable. Even if one would accept the rather bizarre position of the Agency in this regard, i.e., that some bad faith was exhibited by making a poor choice in drilling wells, the penalty policy specifically states that no consideration

of good or bad faith should enter into the economic benefit calculation since such factors should have been considered in the gravity based penalty calculation and that the economic benefit calculation should be based solely upon application of a prescribed formula to given numerical values.

Under the facts in this case, considering that the Respondent did, in fact, drill the required number of wells and did, in fact, engage in sampling and analysis, the economic benefit portion of the proposed penalty herein is unreasonable in the instant case. While the penalty policy suggests that if the economic benefit is determined to be less than $2,500 it should not be calculated, I find that, in this instance, since the case has gone to trial and evidence concerning this matter has been adduced and, in fact, there were some savings to the Respondent because of its failure to engage in the required analysis of the various parameters, and two wells needed to be redrilled, a penalty of $1,000 should be associated with the economic benefit portion of the penalty assessed.

It is concluded on the basis of the record and on Sandoz's own admission as well, that Sandoz has violated the Act and the regulations promulgated pursuant thereto. It is further concluded, for the reasons above stated, that $7,500 is an appropriate penalty for said violations and that a compliance order in the form hereinafter set forth should be issued.

ORDER[1]

Pursuant to the Solid Waste Disposal Act, Section 3008, as amended, 42 U.S.C. 6928, the following order is entered against Respondent, Sandoz, Inc.:

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[1]Unless an appeal is taken pursuant to 40 C.F.R. § 22.30, or the Administrator elects to review this Decision on his own motion, the Decision shall become the Final Order of the Administrator. See 40 C.F.R. § 22.27(c).

1. (a) A civil penalty of $7,500 is assessed against Respondent for violations of the Solid Waste Disposal Act found herein.

(b) Payment of the penalty assessed herein shall be made by forwarding a cashier's check or certified check payable to the United States of America, and mailed to:

EPA - Region 4
(Regional Hearing Clerk)
P. O. Box 100142
Atlanta, GA 30384

2. Immediately upon service of the Final order upon Respondent, Respondent shall:

Operate its groundwater monitoring system is strict compliance with State and Federal requirements.

DATED: October 31, 1985

Thomas B. Yost
Administrative Law Judge

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

345 COURTLAND STREET
ATLANTA, GEORGIA 30365

IN RE	)	
	)	RCRA-84-54-R
SANDOZ, INC.	)	
	)	
Respondent	)	

CERTIFICATION OF SERVICE

In accordance with § 22.27(a) of the Consolidated Rules of Practice (40 C.F.R. Part 22), I hereby certify that the original of the Initial Decision by Hon. Thomas B. Yost was served on the Hearing Clerk (A-110), U.S. Environmental Protection Agency, 401 "M" Street, S.W., Washington, D.C. 20460, along with the official Agency record and file of this proceeding (service by certified mail return receipt requested); and that true and correct copies of the foregoing Initial Decision were served on the parties as follows: Barry P. Allen, Esquire, and Kirk R. Macfarlane, Esquire, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, Atlanta, Georgia 30365 (service by hand-delivery); and Jonathan P. Pearson, Esquire, and Ralph M. Mellam, Esquire, Ogletree, Deakins, Nash, Smoak and Stewart, Post Office Box 11206, Columbia, South Carolina 29211 (service by certified mail return receipt requested).

Dated in Atlanta, Georgia this 31st day of October 1985.

Sandra A. Beck
Regional Hearing Clerk

cc: Hon. T. B. Yost