



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JAN 24 2006

REPLY TO THE ATTENTION OF  
(AE-17J)

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Richard Kabaker  
General Counsel  
Anchor Glass Container Corp.  
4343 Anchor Plaza Parkway  
Tampa, FL 33634

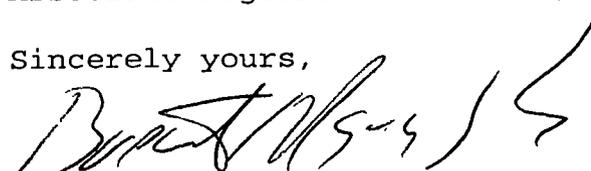
Dear Mr. Kabaker:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves Anchor Glass Container Corporation docket No. CAA-05-2005-0058. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on JAN 26 2006.

Pursuant to paragraph 11 of the CAFO, the assessed civil penalty shall be an allowed claim in Anchor Glass Container Corporation's proceeding for bankruptcy.

Please direct any questions regarding this case to Deborah Carlson, Associate Regional Counsel, (312) 353-6121.

Sincerely yours,

  
Brent Marable  
IL/IN Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF: ) Docket No. CAA-05-2005-0058  
)  
Anchor Glass Container Corp. ) Proceeding to Assess a Civil  
200 West Belleview Drive ) Penalty under Section 113(d)  
Lawrenceburg, Indiana, 47025 ) of the Clean Air Act,  
) 42 U.S.C. § 7413(d)  
)  
Respondent. )

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On September 29, 2005, U.S. EPA filed the complaint in this action against Respondent, Anchor Glass Container Corporation. The complaint alleges that Anchor Glass violated its Part 70 Title V operating permit, the Indiana State Implementation Plan and Section 502(a) of the Act, 42 U.S.C. § 7661a(a), at its facility in Lawrenceburg, Indiana.

3. Anchor Glass Container Corporation (Anchor Glass) filed an answer and requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

**Stipulations**

4. Anchor Glass admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint, except as specified in its answer.

5. Anchor Glass waives its right to contest the allegations in the complaint, and waives its right to appeal this consent agreement and final order (CAFO).

6. Anchor Glass certifies that it is complying fully with its Part 70 Title V permit.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

8. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

9. Anchor Glass filed a voluntary petition for bankruptcy under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Middle District of Florida, Tampa Division (the "Bankruptcy Court"), on August 8, 2005, under Case No. 8:05-bk-15606-ALP (the "Bankruptcy Case").

**Civil Penalty**

10. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), U.S. EPA and Anchor Glass agree that an appropriate civil penalty to settle this action is \$96,901.

11. U.S. EPA and Anchor Glass further agree, that subject to 11 U.S.C. § 502, the \$96,901 penalty, shall be deemed an allowed claim in the bankruptcy case, without prejudice to the right of the U.S. EPA to argue as to the appropriate priority of that claim. The claim shall receive the same treatment, without discrimination, as other allowed claims with the same priority in the bankruptcy case. Any cash distribution on account of the allowed claim shall be by cashier's or certified checks payable to the "Treasurer, United States of America" and shall be sent by Anchor Glass to:

U.S. Environmental Protection Agency  
Region 5  
P.O. Box 70753  
Chicago, Illinois 60673

12. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payments. Respondent must write the case docket number and the billing document number on the face of the checks. Respondent must send copies of the checks and transmittal letters to:

Attn: Regional Hearing Clerk, (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3511

Attn: Compliance Tracker, (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3511

Deborah Carlson, (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3511

13. This civil penalty is not deductible for federal tax purposes.

14. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

**Final Statement**

15. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the complaint.

16. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

17. This CAFO does not affect Anchor Glass's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations. Except as provided in paragraph 16 above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by Complainant.

18. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

19. The terms of this CAFO bind Anchor Glass, and its successors, and assigns.

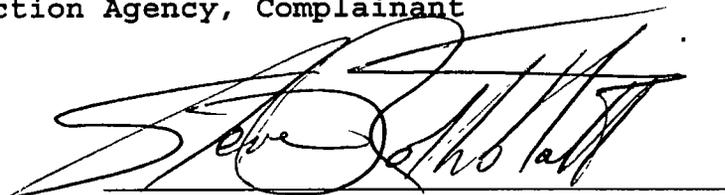
20. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

21. Each party agrees to bear its own costs and attorneys' fees in this action.

22. This CAFO constitutes the entire agreement between the parties.

**U.S. Environmental Protection Agency, Complainant**

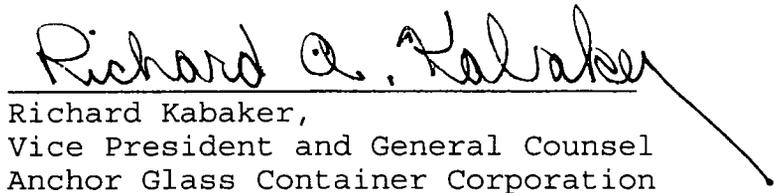
1/24/2006  
Date



Stephen Rothblatt, Director  
Air and Radiation Division  
U.S. Environmental Protection  
Agency, Region 5 (A-18J)

**Anchor Glass Container Corporation, Respondent**

1-11-06  
Date



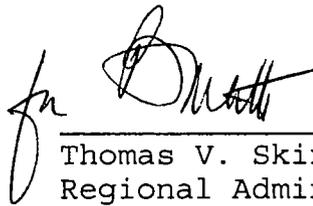
Richard Kabaker,  
Vice President and General Counsel  
Anchor Glass Container Corporation

CONSENT AGREEMENT AND FINAL ORDER  
Anchor Glass Container Corporation  
Docket No. CAA-05-2005-0058

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk. This final order disposes of this proceeding pursuant to 40 C.F.R. § 22.18.

1-24-06



Thomas V. Skinner  
Regional Administrator  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3511

RECEIVED  
JAN 24 2006  
REGIONAL HEARING CLERK

In the Matter of Anchor Glass Container Corp., Lawrenceburg, IN  
Docket No: CAA-05-2005-0058

CERTIFICATE OF SERVICE

I, Betty Williams, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-05-2005-0058 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Anchor Glass Container Corporation's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Richard Kabaker  
Anchor Glass Container Corporation  
4343 Anchor Plaza Parkway  
Tampa, Florida 33634

I also certify that a copy of the CAFO was sent by First Class Mail to:

David McIver, Chief  
Office of Enforcement, Air Section  
Indiana Department of Environmental Management  
100 North Senate Avenue, Room 1001  
Indianapolis, Indiana 46206-6015

on the 26<sup>th</sup> day of January, 2006.

  
Betty Williams, Secretary  
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 1455 1171