



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

FEB 04 2004

REPLY TO THE ATTENTION OF  
(AE-17J)

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Robert Jessup  
Jessup Manufacturing Company  
1701 Rockland Road  
Lake Bluff, Illinois 60044

Dear Mr. Jessup:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves Jessup Manufacturing Company (Jessup), CAA Docket No. ~~CAA-03-~~ 2004 0007. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on 2/9/04.

Please direct any questions regarding this case to Cynthia A. King, Associate Regional Counsel, (312) 886-6831.

Sincerely yours,

A handwritten signature in black ink that reads "Brent Marable".

Brent Marable, Chief  
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF: )  
)  
Jessup Manufacturing Company, )  
Lake Bluff, Illinois, )  
McHenry, Illinois, )  
)  
)  
Respondent. )  
\_\_\_\_\_ )

Docket No. ~~6AA-05~~ 2004 0007

Consent Agreement and  
Final Order

REGISTRATION  
PLANNING  
04 FEB -9 AM '08

CONSENT AGREEMENT AND FINAL ORDER

Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, Chicago, Illinois, and Respondent, Jessup Manufacturing Company (Respondent or Jessup), wish to settle all matters pertaining to this case and have consented to the entry of this Consent Agreement and Final Order (CAFO).

**I. JURISDICTION**

1. This is a civil administrative action instituted pursuant to Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.34 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22 (the Consolidated Rules).

2. Section 22.13(b) of the Consolidated Rules provides that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be

simultaneously commenced and concluded by the issuance of a CAFO.

3. Complainant is, by lawful delegation, the Director of the Air and Radiation Division, U.S. EPA, Region 5.

4. Respondent is Jessup Manufacturing Company, Inc., which is and was at all times relevant to this CAFO, a corporation operating under the laws of the State of Illinois and with places of business at 1701 Rockland Road, Lake Bluff, Illinois, and 2815 West Route 120, McHenry, Illinois.

5. On April 24, 2003, U.S. EPA received a notification from Jessup that it intended to conduct a comprehensive environmental audit of its Lake Bluff and McHenry facilities pursuant to U.S. EPA's "Final Policy Statement on Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations," 60 Fed. Reg. 66706 (December 22, 1995) Self-Disclosure Policy) and U.S. EPA's "Use of Corporate Auditing Agreements for Audit Policy Disclosures" dated May 7, 2001 (Corporate Auditing Policy).

6. On May 2, 2003, U.S. EPA received a self-disclosure notification from Jessup for violations of permitting requirements, including failure to obtain permits, emissions exceedances, and reporting violations at Jessup's facility located in Lake Bluff, Illinois (the Facility).

7. No violations were discovered at Jessup's McHenry, Illinois facility.

### III. SELF-DISCLOSURE POLICY

8. In order to encourage regulated entities to conduct voluntary compliance evaluations and to voluntarily discover, disclose and correct violations of environmental requirements, U.S. EPA promulgated the "Final Policy Statement on Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations," 60 Fed. Reg. 66706 (December 22, 1995) (the Self-Disclosure Policy). As an incentive for regulated entities to participate in the Self-Disclosure Policy's voluntary disclosure process, U.S. EPA may eliminate or substantially reduce the gravity-based component of civil penalties to be assessed for violations which are voluntarily disclosed in compliance with the conditions specified in the Self-Disclosure Policy. The conditions of the Self-Disclosure Policy are as follows:

- (1) Discovery of the violation(s) through an environmental audit or due diligence;
- (2) Voluntary disclosure;
- (3) Prompt disclosure;
- (4) Discovery and disclosure independent of government or third party plaintiff;
- (5) Correction and remediation;
- (6) Prevention of recurrence of the violation;
- (7) Absence of repeat violations;
- (8) Other violations excluded; and
- (9) Cooperation.

9. Pursuant to the Self-Disclosure Policy, U.S. EPA may reduce gravity-based penalties up to one-hundred percent if the disclosing entity satisfies all of the conditions listed above.

U.S. EPA may reduce gravity-based penalties up to seventy-five percent if the disclosing entity satisfies conditions (2) - (9), above. However, U.S. EPA reserves the right to assess a civil penalty with regard to any economic benefit that may have been realized as a result of such violations, even in those instances when the disclosing entity has met all the conditions of the Self-Disclosure Policy. In its enforcement discretion, U.S. EPA may waive a civil penalty with regard to the economic benefit arising from such violations if U.S. EPA determines that such economic benefit is insignificant. Penalty reductions are not available under the Self-Disclosure Policy for violations that result in serious actual harm or may present an imminent and substantial endangerment to public health or the environment, nor are such reductions available for violations of any order or consent agreement.

#### **IV. STIPULATED FACTS**

10. In a letter dated May 2, 2003, to U.S. EPA, Jessup disclosing the following violations:

i. Failure to obtain an Illinois construction and operating permit for an oxidizer at its Lake Bluff, Illinois Facility;

ii. Failure to obtain an Illinois construction and operating permit for a laminator at its Lake Bluff, Illinois Facility;

iii. Failure to maintain records of a 12-month rolling

average of volatile organic materials emissions as required by Illinois Permit No.097809AAG at its Lake Bluff, Illinois Facility;

iv. Failure to file an exceedance report for exceedances of monthly usage conditions in Illinois Permit. No.097809AAG for a single hazardous air pollutant;

v. Failure to file a special waste report for material shipped out of state with the Illinois Environmental Protection Agency (Illinois EPA);

vi. Failure to properly label drums; and

vii. Failure to file a "no exposure" certification with Illinois EPA.

11. In its letter dated May 2, 2003, Jessup provided information to U.S. EPA that its disclosed violations were discovered during an environmental audit.

12. Jessup provided information to U.S. EPA indicating that the violations were disclosed promptly and in writing within 12 days of discovery pursuant to the environmental audit.

13. Jessup provided information to U.S. EPA indicating that the disclosed violations were identified and disclosed by Jessup prior to the commencement of a Federal, state, or local agency inspection, investigation, or information request, notice of a citizen suit, legal complaint by a third party, reporting of the violation to U.S. EPA by a "whistle blower" employee, or imminent

discovery by a regulatory agency.

14. Jessup provided information to U.S. EPA indicating that the disclosed violations either have been promptly corrected or Jessup has taken steps to correct the violations and is working with state and local air agencies to expeditiously return to compliance.

15. Jessup provided information to U.S. EPA indicating that Jessup has taken steps to prevent a recurrence of the violations, and has agreed to conduct an environmental audit of its Lake Bluff, Illinois Facility on an annual basis.

16. Jessup provided information to U.S. EPA indicating that the violations at issue or closely related violations have not occurred previously within the past three years at the same facility and are not part of a pattern of violations on the part of Jessup over the past five years.

17. Jessup provided information to U.S. EPA indicating that the violations at issue have not been the subject of a Federal, state or local agency judicial or administrative complaint, enforcement action or settlement, nor has Jessup or a parent organization received a penalty mitigation concerning the violations at issue during the three years preceding the issuance of this CAFO.

18. Jessup provided information to U.S. EPA indicating that the violations at issue have not resulted in serious actual harm

to human health or the environment, nor have the violations presented an imminent and substantial endangerment to public health or the environment.

19. Jessup provided information to U.S. EPA indicating that the violations at issue do not violate the specific terms of any judicial or administrative order or consent agreement.

20. Jessup has cooperated with U.S. EPA and provided the information necessary for the Agency to determine the applicability of the Self-Disclosure Policy to Jessup's disclosure.

#### **V. VIOLATION**

Pursuant to the Self-Disclosure Policy, and based upon the information provided by Jessup in its letter dated May 2, 2003, U.S. EPA makes the following determination concerning Jessup's disclosures:

21. Jessup's violations listed in paragraph 10, i-iv, above are violations of the Illinois air permitting requirements, and/or the Jessup's Illinois air permit No.097809AAG and as such constitute violations of the Act. The violations identified in Paragraph 10, v-vii, have been corrected and addressed with the Illinois EPA who has jurisdiction over such matters, and therefore, this CAFO does not address those matters.

#### **VI. PROPOSED PENALTY**

22. Because in its letter dated May 2, 2003, Jessup

provided information to U.S. EPA that its disclosed violations were discovered through an audit or compliance management system and has met all other conditions of the Self-Disclosure Policy, the gravity-based penalty is being reduced to \$0. The collection of an economic benefit-based civil penalty is being waived as U.S. EPA determines that the economic benefit-based penalty would be insignificant. Therefore, the total penalty in this case is \$0.

#### **VIII. OPPORTUNITY TO REQUEST A HEARING**

23. In accordance with the Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.* and the Consolidated Rules, by signing this CAFO, you will waive your right to request a hearing regarding the allegations contained in this CAFO, to contest any material fact contained in this CAFO, and/or to contest the appropriateness of the amount of the proposed penalty.

24. To request a hearing, Respondent must notify U.S. EPA of its intention to not enter into this agreement. U.S. EPA will then issue an administrative complaint under the Consolidated Rules. Respondent will then have the opportunity to specifically make the request for a hearing in a written Answer to U.S. EPA's Complaint in accordance with the procedures specified in the Consolidated Rules.

## **IX. SETTLEMENT PROVISIONS**

25. Pursuant to the Self-Disclosure Policy, the Corporate Auditing Policy, Section 113(d) of the Act, 42 U.S.C. § 7413(d), and the Consolidated Rules, U.S. EPA and Jessup enter into this CAFO for Jessup's disclosed violations.

26. The violations which are the subject of this CAFO were voluntarily disclosed by Jessup to U.S. EPA by letter dated May 2, 2003.

27. This CAFO resolves the violations alleged in this CAFO up until the date that this CAFO is filed or until a final decision has been communicated to Jessup in writing by the state and local agencies to either grant or deny the permits requested by Jessup, whichever is later.

28. Jessup admits that U.S. EPA has jurisdiction over the violations disclosed in this CAFO.

29. Jessup admits the specific factual allegations contained in this CAFO and agrees to its terms.

30. Jessup hereby waives its right to a judicial or administrative hearing with respect to this CAFO, its right to appeal the proposed final order accompanying the consent agreement, and explicitly waives any and all rights under any provisions of law to challenge the terms and conditions of this CAFO.

31. Nothing in this CAFO shall relieve Jessup of its duty to comply with all applicable provisions of the Act, and other Federal, state or local laws or statutes, nor shall it restrict U.S. EPA's authority to seek compliance with all applicable provisions of these statutes and other applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any Federal, state or local permit.

32. Jessup represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on its behalf is duly authorized to bind Jessup to the terms of this CAFO.

33. The provisions of this CAFO shall be binding on Jessup, its officers, directors, employees, agents, servants, and authorized representatives.

34. Each party shall bear its own costs, fees, including but not limited to attorneys' fees, and disbursements in this action.

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

36. Upon filing, U.S. EPA will transmit a copy of the filed CAFO to Jessup.

37. Jessup and U.S. EPA agree to issuance of the attached Final Order.

38. By signing this CAFO, Jessup certifies, that to its

knowledge, the information provided to U.S. EPA as it pertains to this disclosure, was at the time of submission, true, accurate, and complete for each such submission, response and statement. Respondent realizes that there are significant penalties for submitting false or misleading information, including the possibility of fines and/or imprisonment for knowing submission of such information under 18 U.S.C. § 1001.

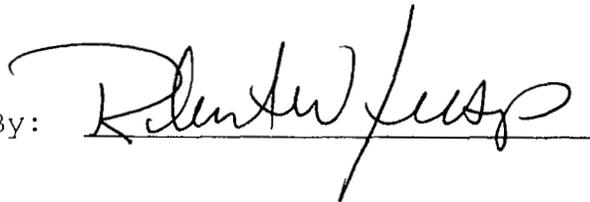
39. By signing this CAFO, Jessup certifies that it has met all of the conditions of U.S. EPA's Self-Disclosure Policy and qualifies for a mitigation of the gravity-based component of the civil penalty for the disclosed violations.

The foregoing Consent Agreement is hereby Stipulated, Agreed, and Approved for Entry:

**Jessup Manufacturing Company**  
**Respondent**

Date: 1/3/2004

By:



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

Date:

1/30/2004

By:



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

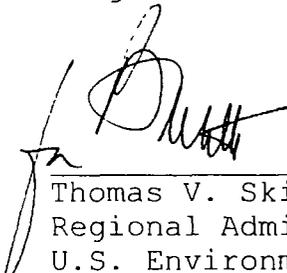
In the Matter of Jessup Manufacturing Company  
Lake Bluff and McHenry, Illinois

CAA-03-2004 0007

FINAL ORDER

It is so ORDERED, in the case of Jessup Manufacturing Company, Lake Bluff and McHenry, Illinois as agreed to by the parties and as stated in the foregoing Joint Civil Administrative Complaint and Consent Agreement. This Final Order disposes of this matter pursuant to 40 C.F.R. § 22.18. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated: 2/3/04

  
\_\_\_\_\_  
Thomas V. Skinner  
Regional Administrator  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

In the Matter of Jessup Manufacturing Company  
Docket No:

~~04-06-2000~~ 0007

CERTIFICATE OF FILING AND MAILING

I, Betty Williams, do hereby certify that I hand delivered the original of the Consent Agreement and Final Order, docket number ~~04-06-~~ 04-0007 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 Jessup Manufacturing Company and Jessup Manufacturing Company's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Robert Jessup  
Jessup Manufacturing Company  
1701 Rockland Road  
Lake Bluff, Illinois 60044

Mark Steger  
Holland & Knight LLC  
131 South Dearborn  
30<sup>th</sup> Floor  
Chicago, Illinois 60603

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

Julie Armitage, Acting Manager  
Compliance and Enforcement Section  
Bureau of Air  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62794

REG  
04  
FEB  
11  
2000

on the 9<sup>th</sup> day of February, 2004.

Betty Williams  
Betty Williams, Secretary  
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 01783396  
7001 0320 0006 01783387

~~GAA-05~~ 2004 0007