ANGUS®

April 14, 1998

CERTIFIED MAIL - RETURN RECEIPT REQUESTED JWS #47-98

Regional Hearing Clerk (6C)
U. S. EPA, Region 6
P. O. Box 360582M
Pittsburgh, Pennsylvania 15251

Subject: CAA Docket No. R6-P-M-LA-98021

R6PMLA98021
0698AP42

Gentlemen:

Enclosed is cashier's check number 086370 in the amount of $15,000.00 in accordance with the Consent Agreement and Consent Order ("CACO") filed March 31, 1998 as Docket No. R6-P-M-LA-98021.

In accordance with paragraph 31 of the CACO, the CACO is terminated upon payment of the penalty amount ($15,000.00), except for the release provisions of paragraph 27.

Please contact me if there are any questions regarding this submission.

04-20-98 03602582 0582449 26 002 19

Mellon Bank

Cross Keys Bank 086370

Remitter

Angus Chemical Company CAA Docket No. R6-P-M-LA-98021 4-9 1998

PAY TO THE ORDER OF Treasurer of the United States of America $ 15,000.00

CROSS KEYS BANK 15000 00/100 cts DOLLARS

CASHIER'S CHECK

Sharon Smith

⑈086370⑈ ⑆11110238⑆ 21 1170 ⑈0001500000⑈

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

March 31, 1998

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ms. Susan Vavra Harris
Sidley & Austin
One First National Plaza
Chicago, Illinois 60603

Re: ANGUS Chemical Company
CAA Docket No. R6-P-M-LA-98021

Dear Susan:

Please find enclosed a fully executed file stamped copy of the Consent Agreement and Consent Order ("CACO") in regard to the above-entitled case. The fully executed original was filed with the Regional Hearing Clerk on the above date.

Also, find enclosed a file stamped copy of the Complaint and Notice of Opportunity for Hearing ("Complaint") in the above-entitled case. ANGUS Chemical Company ("ANGUS") will not need to file an Answer for the Complaint as the fully executed CACO is ANGUS' answer.

ANGUS will have thirty (30) days from the effective date of the CACO (effective date is the date that the CACO is filed with the Regional Hearing Clerk) to pay the civil penalty.

Thank you for your assistance in this matter.

Sincerely,

Jan Gerro
Enforcement Counsel

Enclosure

cc: Mr. Robert C.J. Dymond
B.J. Prichard, LDEQ

Recycled/Recyclable • *Printed with Vegetable Oil Based Inks on 100% Recycled Paper (40% Postconsumer)*

FILED

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REGIONAL HEARING CLERK
EPA REGION VI

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

In the Matter of:	)	DOCKET NO. R6-P-M-LA-98021
ANGUS CHEMICAL COMPANY Louisiana Highway 2 Sterlington, Louisiana	)	CONSENT AGREEMENT AND CONSENT ORDER
Respondent	)	

CONSENT AGREEMENT AND CONSENT ORDER

The Director, Compliance Assurance and Enforcement Division, United States Environmental Protection Agency, Region 6 ("EPA") as Complainant and ANGUS Chemical Company ("ANGUS") as Respondent in the above referenced action, have consented to the terms of this Consent Agreement and Consent Order ("CACO").

NOW THEREFORE, before the taking of any testimony, without any adjudication of any issues of law or fact herein, the parties agree to the terms of this Consent Agreement and Consent Order.

I. PRELIMINARY STATEMENT

1. This enforcement proceeding is instituted by EPA pursuant to Section 113(d) of the Clean Air Act, ("CAA") as amended, 42 U.S.C. § 7413(d). This proceeding was instituted by the issuance of a Complaint and Notice of Opportunity for Hearing ("Complaint") dated the 31st day of March, 1998.

2. The Complaint charged Respondent with the following CAA violations: Count 1. Failure to comply with standards for open-ended valves or lines as required by 40 C.F.R. § 63.167(a)(2).

3. Without trial or litigation of the issues or any adjudication of the facts, Respondent: (1) admits that EPA has jurisdiction over the subject matter alleged in the Complaint; (2) denies the allegations contained in the Complaint, and EPA's Findings of Facts and Conclusions of Law; (3) expressly waives its right to a hearing on any issue of law or fact set forth herein in this proceeding only as part of settlement, and waives all defenses which have been or could have been raised to the claims set out in this proceeding only as part of this settlement; and (4) consents to the issuance of this CACO and consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in below.

II. EPA's FINDINGS OF FACT AND CONCLUSIONS OF LAW

4. Respondent is a "person" as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the Act, 42 U.S.C. § 7413(c), and as such is subject to regulation.

5. Respondent is an "owner or operator" of a stationary source which is also an affected source as those terms are defined at 40 C.F.R. § 63.2.

6. At all times relevant to this Complaint, Respondent has been the "owner" and "operator" of the facility located at Louisiana Highway 2, Sterlington, Louisiana.

7. On or about September 4-5, 1997, Respondent consented to the inspection of its facility by a representative of the U.S. EPA, Jeff Whitney, pursuant to Section 114 of the Act, 42 U.S.C. § 7414.

8. On or about the time of the September 4-5, 1997 inspection, a representative of the U.S. EPA presented his credentials to a representative of Respondent, as required by Section 114(a)(2) of the Act.

9. ANGUS (as identified in paragraph 6 above) is a "stationary source" as that term is defined at Section 112(a)(3) of the Act, 42 U.S.C. § 7412(a)(3) and 40 C.F.R. § 63.2.

10. Section 112 of the Act, as amended November 15, 1990, authorizes the Administrator of EPA to regulate specific categories of stationary sources that emit (or have the potential to emit) one or more hazardous air pollutants. The national emission standards for organic hazardous air pollutants, (also known as Hazardous Organic NESHAPs or "the HON") were established pursuant to section 112 of the Act as amended in 1990.

11. 40 C.F.R. § 63.160 states that the provisions of Subpart H - National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks apply to pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, surge control vessels, bottoms receivers, instrumentation systems, and control devices or systems required by this subpart that are intended to operate in organic hazardous air pollutant service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart of 40 C.F.R. Part 63 that references this subpart.

12. The process units containing such equipment within the facility were designed to operate 24 hours per day, throughout the year, and were thus intended to operate in organic hazardous air pollutant service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart of 40 C.F.R. Part 63 that references this subpart.

13. Respondent's process unit (Nitroparaffins unit, from which 2-nitropropane is produced as a primary product) located at the facility meets the criteria in 40 C.F.R. § 63.100(b) classifying it as a HON unit. This unit is subject to HON Subpart G (storage vessels) and Subpart H (equipment leaks).

14. 40 C.F.R. § 63.167(a)(2) requires that each open-ended valve or line be equipped with a cap, blind flange, plug, or second valve which shall seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line, or during maintenance or repair.

15. During the EPA inspection of Respondent's facility conducted on September 4-5, 1997, as identified in paragraph 4 above, valves 10258 and 10265, located in the SJ67B area of the nitroparaffins unit were equipped with plugs, but the plugs were not in place or did not seal the open ends at times when maintenance or repair was not being conducted.

16. Respondent therefore violated the HON regulations found at 40 C.F.R. § 63.167, and thereby violated Section 112 of the Act.

III. CONSENT AGREEMENT

17. Respondent agrees to the assessment of a penalty in the amount of Fifteen Thousand Dollars ($15,000) which shall be due on or before thirty (30) days after the filing of the CACO.

18. Respondent waives its right to request an adjudicatory hearing in this proceeding only as part of this settlement.

19. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

20. Respondent represents that it is duly authorized to execute this CACO and that the party signing this CACO on its behalf is duly authorized to bind Respondent to the terms of this CACO.

21. Respondent consents to the issuance of the Consent Order set forth below and consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in the Consent Order below.

IV. CONSENT ORDER

IT IS HEREBY ORDERED AND ADJUDGED as follows:

22. For the reasons set forth above, Respondent is hereby assessed a penalty in the amount of Fifteen Thousand Dollars ($15,000).

23. Respondent shall pay the assessed penalty not later than 30 days from the filing of the fully executed CACO. The payments shall be made by mailing a money order, cashier's check

or certified check payable to the Treasurer of the United States of America, to the following address:

Regional Hearing Clerk (6C)
U.S. EPA, Region 6
P.O. Box 360582M
Pittsburgh, Pennsylvania 15251

The CAA DOCKET NO. R6-P-M-LA-98021 should be clearly typed on the check to ensure proper credit.

24. Respondent shall send simultaneous notices of such payment, including a copy of the money order, cashier's check or certified check to the following:

(1) Barry Feldman (6EN-AT)
Air Enforcement Section
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

(2) Jan Gerro (6EN-LA)
Enforcement Counsel
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

25. Failure to pay the assessed penalty as set forth above may subject Respondent to a civil action pursuant to Section 113(d)(5) of the Act, to collect any unpaid portion of the assessed penalty, together with interest, handling charges and nonpayment penalties as set forth in the following paragraph.

26. Pursuant to 42 U.S.C. § 7413(d)(4) and 31 U.S.C. § 3717, Respondent shall pay the following amounts:

A. Interest: If the United States does not receive payment within the 30 days specified above, interest will accrue on the amount due from the filing date of the CACO at the current

annual rate prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletin per annum through the date of payment.

B. Handling Charge: Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of $15 shall be paid if any portion of the assessed penalty is more than 30 days past due.

C. Attorney Fees, Collection Costs, Nonpayment Penalty: Pursuant to 42 U.S.C. § 7413(d)(4), should Respondent fail to pay on a timely basis the amount of the assessed penalty, Respondent shall pay, in addition to such assessed penalty, interest and handling charges, the United States' enforcement expenses, including but not limited to attorney fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent (10%) of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

27. In consideration for Respondent's payment of the penalty as set forth in paragraph 22, Complainant covenants not to initiate any other civil administrative or judicial action against Respondent relating to the alleged violations which are the subject matter of the CACO and Complaint herein. Complainant further releases, waives and discharges Respondent from any and

all civil liability or further civil penalties resulting from the alleged violations which were the subject matter of the CACO and Complaint herein. However, nothing in this CACO shall be construed as a waiver by Complainant of the right to redress future violations or obtain penalties with respect thereto.

28. The provisions of this CACO shall be binding on Respondent, its officers, directors, agents, servants, authorized representatives, successors and assigns.

29. Each party shall bear its own costs, fees and disbursements in this action.

30. Nothing in this CACO shall be construed to relieve Respondent or its officers, agents, servants, employees, successors, or assigns of their obligation to comply with all applicable federal, state, and local statutes and regulations.

31. Except for the provisions of paragraph 27, this CACO shall terminate upon payment by Respondent of the penalty amount specified above.

FOR THE RESPONDENT:

26 March 98.
Dated

Robert C.J. Dymond
President and
Chief Executive Officer
ANGUS Chemical Company

FOR U.S. EPA,
REGION 6:

31 March 1998
Dated

Sam Coleman, P.E.
Director

Compliance Assurance and
Enforcement Division

This Consent Agreement and Consent Order is hereby adopted and issued pursuant to Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22.

It is so ORDERED. This Order shall become effective upon filing of the fully executed CACO.

DATED this 31 day of March, 1998.

for Samuel Coleman
Jerry Clifford
Acting Regional Administrator

CERTIFICATE OF SERVICE

I hereby certify that on the 31st Day of March, 1998, the original and one copy of the foregoing Complaint and Notice of Opportunity for Hearing ("Complaint") and the original of the fully executed Consent Agreement and Consent Order ("CACO") were hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that true and correct copies were placed in the United States Mail, addressed as follows to the following:

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ms. Susan Vavra Harris
Sidley & Austin
One First National Plaza
Chicago, Illinois 60603

VIA FIRST CLASS MAIL

Mr. Robert C.J. Dymond
President and Chief Executive Officer
Angus Chemical Company
Post Office Box 1325
Sterlington, LA 71280

Jan Gerro
Enforcement Counsel

Certified Return Receipt No. P 422 558 419