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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 Ross Avenue
Dallas, Texas 75202

98 OCT 29 AM 9:39

REGIONAL HEARING CLERK
EPA REGION VI

Docket No. SARA 6-98-008

IN THE MATTER OF:	)	
	)	
ANGUS Chemical Company	)	
P.O. Box 1325	)	
Sterlington, Louisiana 71280	)	
	)	**Consent Agreement and Consent Order**
RESPONDENT	)	

I. INTRODUCTION AND JURISDICTION

The Consent Agreement and Consent Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609. The proceeding will be accompanied by the issuance of an Administrative Complaint ("Complaint"), Docket No. SARA **6-98-008,** served on **ANGUS Chemical Company** (Respondent) by the Director, Superfund Division, of the United States Environmental Protection Agency, Region 6 (Complainant).

The Complaint states a claim upon which relief could be granted and alleges that Respondent violated the notification requirements of CERCLA §103(a), 42 U.S.C.§9603(a).

For purposes of this proceeding and the enforcement of this Consent Agreement / Consent Order (Order), Respondent admits the jurisdictional allegations set forth in the Complaint and admits to EPA's authority to enforce this Order; however, Respondent neither

admits nor denies the Findings of Fact or Conclusions of Law or any specific allegation contained in the Complaint or this Order.

For purposes of this proceeding and the enforcement of this Order, Respondent expressly waives its rights to a hearing on any issue of Law or Fact set forth in the Complaint or any Findings of Fact or Conclusions of Law set forth in this Order. Further, for the purpose of this proceeding, for entering this Order, and for the enforcement of this Order, Respondent waives all defenses which have been or could have been raised to claims set forth in the Complaint.

This Order shall apply to and be binding upon EPA, Respondent, and Respondent's agents, successors, and assigns. The signatories certify that they are authorized to execute and legally bind the parties they represent to it. No change in the ownership or corporate status of the Respondent shall alter its responsibilities under this Order.

The parties agree that execution of this Order is in the public interest and that completion of the provisions of POLLUTION PREVENTION AND TRAINING PROJECTS in the manner directed by this Order shall result in the complete settlement and satisfaction of all matters raised in the Complaint.

II. PRELIMINARY STATEMENT

1. CERCLA 102(a), 42 U.S.C. § 9602 requires 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 CERCLA §103(a). EPA has published and

amended such a list, including the corresponding reportable quantities (RQs) for those substances. This list is codified at 40 CFR Part 302.

2. CERCLA 103(a) requires 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").

3. Respondent is doing business in **Sterlington, Ouachita Parish, Louisiana.**

4. Respondent is a "person" as defined under CERCLA 101(21), 42 U.S.C. § 9601(21).

5. Respondent is the owner and/or operator of a "facility" as that term is defined at 42 U.S.C. § 9601(9), CERCLA 101(9).

6. Respondent owned and/or operated the Facility during the "release" of a hazardous substance as that term is defined at 42 U.S.C. § 9601(22), CERCLA 101(22).

7. Respondent was in charge of the facility during the release of a hazardous substance as described below.

8. **Ammonia** is a "hazardous substance" as defined at CERCLA §101(14), U.S.C. §9601(14). The RQ for **ammonia** is **100** pounds, as set forth in 40 C.F.R. Part 302, Table 302.4.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. The allegations contained in paragraphs 1 through 8 are incorporated herein by reference.

10. On or about **May 29, 1998**, at **1440** hours, while Respondent was in charge of the facility, there was a release of **ammonia** from the facility into the environment. This release into the environment was more than the RQ. The release lasted approximately **423 minutes**.

11. Respondent had knowledge of the release on **May 29, 1998,** at **1440 hours.**

12. Respondent reported the release to the NRC on **June 19, 1998,** at **1515 hours**.

13. Therefore, Respondent violated the notification requirements of CERCLA §103(a), 42 U.S.C. § 9603(a) by failing to provide notice to the NRC immediately after having knowledge that the release occurred.

IV. POLLUTION PREVENTION AND TRAINING PROJECTS

(a) Respondent shall provide emergency response and/or computer equipment for response to hazardous materials incidents within **Ouachita Parish**, to be determined by the Chairperson of the LEPC. The purchase of the equipment, the value to be **$6,000.00 (SIX THOUSAND DOLLARS)** will be based on specifications provided by the LEPC Chairperson. Respondent shall contact the Chairperson within 45 days from the Effective Date of this Consent Agreement and Consent Order to receive specifications for this purchase. The purchase of the equipment and delivery to the Chairperson is to be made no later than 30 days from delivery of specifications to Respondent, unless and extension is granted pursuant to Section IX below.

(b) Respondent shall provide funding to support a Regional Local Emergency Planning Committee (LEPC) Conference in Lake Charles, Louisiana, November, 1998. Respondent shall provide **$4,000.00 (FOUR THOUSAND DOLLARS)** directly to the Calcasieu Parish LEPC. These funds will be used to defray costs associated with attendance by LEPCs within

Region 6. Respondent shall not be responsible for any other duties associated with the conference. Payment of the funding shall be made payable to the "Calcasieu Parish LEPC - LEPC Conference" and shall be mailed to:

Mason Lindsey
Calcasieu Parish LEPC
P.O. Box 1391
Lake Charles, Louisiana 70602

Payment should be made within 30 days of the Effective Date of this Consent Agreement and Consent Order.

Scope of Supplemental Environmental Project

1. Respondent shall undertake the above Supplemental Environmental Projects (SEPs), which the parties agree is intended to secure significant environmental of public health protection and improvement.

2. Within 60 days after the provision for paragraphs (a) and (b) of the SEP is fully completed, Respondent shall submit to EPA a SEP completion report. The report shall be sent to the Enforcement Coordinator at:

Steve Mason, Enforcement Coordinator
Preparedness and Prevention Team (6SF-RP)
U.S. EPA Region 6
1445 Ross Avenue
Dallas, Texas 75202

3. The Report shall include the following:

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

(2) copies of appropriate documentation showing that the minimum amounts detailed above in paragraphs (a) and (b) were expended, including invoices and cancelled checks. Upon request, Respondent shall immediately send EPA any additional documentation requested by EPA.

4. Respondent certifies that, as of the date this CACO 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.

5. Any public statement, oral or written, issued by Respondent making 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 an alleged violation of Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act."

6. If Respondent fails to timely and fully complete any part of the SEP, including failing to spend the minimum amount stated in paragraphs (a) and (b) above for the SEP, Respondent shall pay a stipulated penalty of **$2,000.00 (TWO THOUSAND DOLLARS)**, except as follows:

(1) If the SEP was fully and timely completed, and Respondent expended at least 90 percent of the minimum amount required, Respondent shall not pay a stipulated penalty; and

(2) If the SEP was not fully and timely completed, but Respondent expended at least 90 percent of the minimum amount required, Respondent shall not pay a stipulated penalty if it made a good faith effort to fully and timely complete the SEP.

7. 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.

8. If Respondent fails to timely submit an SEP Completion Report pursuant to paragraph 2 above, Respondent shall pay a stipulated penalty of $100 for each day the Completion Report is late.

VII. COMPLIANCE WITH OTHER LAWS

This Order shall not be interpreted to relieve Respondent of its obligations to comply with the requirements of other applicable Federal, State or local laws or regulations. The pending or outcome of any proceeding concerning the issuance, reissuance, or modification of any authorization or permit shall neither affect nor postpone Respondent's duties and liabilities as set forth in this Order. Nothing in this Order shall be construed to prevent or limit the EPA's civil authority or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.

VIII. NOTICE

Any notice to be made to the EPA under the terms of this Order shall be made in writing, and deposited in the United States Mail addressed to:

Steve Mason, Enforcement Coordinator
Preparedness and Prevention Team (6SF-RP)
U.S. EPA Region 6
1445 Ross Avenue
Dallas, Texas 75202

IX. MODIFICATIONS

Except as provided for herein, there shall be no modification of this Order without written approval of all of the parties to this Order and the Regional Administrator of EPA, Region 6.

X. EFFECTIVE DATE

This Order shall become effective on the date that it is filed with the Regional Hearing Clerk, EPA Region 6.

XI. TERMINATION

This Order shall terminate when Respondent has completed the requirements of the Penalty Order, Stipulated Penalties, and Pollution Prevention and Training Projects.

WHEREFORE, WE HEREBY CONSENT to the entry of this Order.

United States Environmental Protection Agency, Region 6

COMPLAINANT

10/27/98
Date

for Director
Superfund Division

10/2/98
Date

FOR RESPONDENT
ANGUS Chemical Company

CONSENT ORDER

This Consent Agreement and Consent Order is hereby adopted and issued pursuant to Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §9609, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 CFR Part 22.

10/28/98
Date

for Greg A. Cooke
Regional Administrator
U.S. Environmental Protection
Agency, Region 6