

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-04-2018-8007(b)

This ESA is issued to: Kroger Limited Partnership II d/b/a Winchester Farms Dairy
675 Rolling Hills Lane
Winchester, Kentucky 40391

for alleged violations of 40 C.F.R § 68.39(a), 40 C.F.R § 68.39(b), and Section 112(r)(7) of the Clean Air Act.

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency, Region 4, the Director of the Air, Pesticides and Toxics Management Division (Complainant), and by Kroger Limited Partnership II d/b/a Winchester Farms Dairy (Respondent), pursuant to Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), and pursuant to 40 C.F.R § 22.13(b).

ALLEGED VIOLATIONS

Based on a compliance monitoring inspection conducted at the Respondent's facility located at 675 Rolling Hills Lane, Winchester, Kentucky, on March 28, 2017, the EPA alleges that the Respondent violated the Act's Chemical Accident Prevention Program, when at the time of inspection, Respondent did not provide evidence that:

It maintained records for worst-case scenarios: assumptions and parameters used as required by 40 C.F.R § 68.39(a); and

It maintained records for alternative release scenarios: assumptions and parameters used, as required by 40 C.F.R § 68.39(b).

SETTLEMENT

In consideration of Respondent's size, its full compliance history, its good faith efforts to comply, and other factors as justice may require, and upon consideration of the entire record the parties enter into the ESA in order to settle the alleged violations cited above, for the total penalty amount of \$1,200.

This settlement is subject to the following terms and conditions: the Respondent by signing below admits the jurisdictional allegations contained herein, neither admits nor denies the specific factual allegations contained herein, and consents to the assessment of the penalty as stated above; Respondent waives its rights to a hearing afforded by Section 113(d)(2)(A) of the Act, 42 U.S.C § 7413(d)(2)(A), and to appeal this ESA or otherwise contest the allegations contained in this ESA; and each party to this action shall bear its own costs and fees, if any.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has taken actions to address the alleged violations listed in this ESA.

Within fifteen (15) days of receiving a copy of the fully executed ESA, Respondent shall pay a civil penalty in the amount of \$1,200. Respondent's payment shall be made by sending a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$1,200 in payment of the full penalty amount to one of the following addresses or via wire transfer:

For payment sent via electronic transfer

For payment by wire transfer, in lieu of a cashier's check or certified check, if desired, should be directed to the Federal Reserve Bank of New York using the following information:

ABA: 021030004

Account: 68010727

SWIFT address: FRNYUS33

33 Liberty Street

New York, New York 10045

Beneficiary: "U.S. Environmental Protection Agency";

The wire transfer instructions shall reference the Respondent's name and Docket Number of this ESA.

For payment sent via Standard Delivery

U.S. Environmental Protection Agency

Cincinnati Finance Center Box 979077

St. Louis, Missouri 63197-9000; or

For payment sent for Signed Receipt Confirmation (FedEx, DHL, UPS, USPS Certified, Registered, etc.)

U.S. Environmental Protection Agency

Cincinnati Finance Center Box 979077

1005 Convention Plaza

SL-MO-C2-GL

St. Louis, Missouri 63101

Delivery Location Phone Number: 314- 425-1819

The Respondent's name and the Docket Number of this ESA must be included on the check. The Docket Number is located at the top left corner of the first page of this ESA.

At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this ESA to:

Regional Hearing Clerk

U.S. EPA Region 4

61 Forsyth Street, S.W.

Atlanta, Georgia 30303, and

Om P. Devkota
U.S. EPA Region 4
Chemical Management and Emergency
Planning Section
61 Forsyth Street S.W.
Atlanta, Georgia 30303

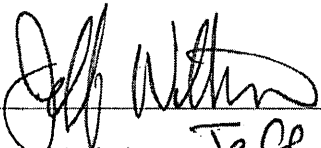
The penalty specified in this ESA shall represent civil penalties assessed by the EPA and shall not be deductible for purposes of State or Federal taxes.

Respondent's full compliance with this ESA shall only resolve Respondent's liability for Federal civil penalties for the violations alleged in this ESA. The EPA does not waive any other enforcement action for any other violations of the Act or any other statute.

This ESA is binding on the parties signing below. This ESA is effective upon filing with the Regional Hearing Clerk.

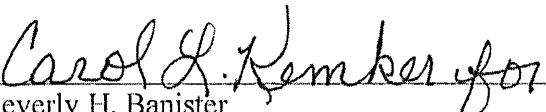
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FOR RESPONDENT:


Name (print): Jeff Wilkerson
Title (print): Site Leader
Kroger Limited Partnership II d/b/a Winchester Farms Dairy

Date: 6-18-18

FOR COMPLAINANT:


Beverly H. Banister
Director
Air, Pesticides and Toxics Management Division

Date: 8/9/18

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.


Tanya Floyd
Regional Judicial Officer

Date: August 14, 2018

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Expedited Settlement Agreement (ESA), in the matter of Winchester Farms Dairy., CAA-04-2018-8007(b), on the parties listed below in the manner indicated:

Om P. Devkota
U. S. EPA, Region 4
Air, Pesticides and Toxics
Management Division

(Via EPA's internal mail)

Michi Kono
U. S. EPA, Region 4
Office of Regional Counsel

(Via EPA's internal mail)

Mr. Jeff Wilkerson
Site Leader
Winchester Farms Dairy
675 Rolling Hills Lane
Winchester, Kentucky 40391

(Via Certified Mail - Return Receipt Requested)

Date: 8-14-18



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511