

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
and)	
)	
MISSISSIPPI COMMISSION ON)	
ENVIRONMENTAL QUALITY)	
)	Civil No. 3:03cv1140WSu
and)	Honorable Henry T. Wingate
)	
STATE OF WEST VIRGINIA)	
)	
Plaintiff-Intervenors,)	
)	
v.)	
)	
ERGON REFINING, INC.)	
)	
and)	
)	
ERGON-WEST VIRGINIA, INC.)	
)	
Defendants.)	
_____)	

STIPULATED ORDER

WHEREAS, Plaintiff the United States of America (“United States”), Plaintiff-Intervenors the Mississippi Commission on Environmental Quality and West Virginia Department of Environmental Protection (collectively, “Plaintiff-Intervenors”), and Defendants Ergon-West Virginia, Inc. (“EWV”) and Ergon Refining, Inc. (“ERI”) (sometimes collectively, the “Defendants”) are parties to a Consent Decree entered by this Court on December 31, 2003 (“Consent Decree”);

WHEREAS, Paragraph 80 of the Consent Decree provides that non-material modifications to the Consent Decree may be made by agreement of the United States, Plaintiff-Intervenors and Defendants in writing; and

WHEREAS, the parties have agreed to certain non-material modifications to the reporting provisions of the Consent Decree for purposes of administrative efficiency;

NOW, THEREFORE, it is Ordered, Adjudged and Decreed as follows:

1. Paragraph 77, providing for the manner of certain Consent Decree required notices and reporting, shall be revised to read as follows:

77. **Notice.** Unless otherwise provided herein, notifications to or communications between the Parties shall be deemed submitted on the date they are postmarked and sent by U.S. Mail, postage pre-paid, except for notices under Section XIV (Force Majeure) and Section XV (Retention of Jurisdiction/Dispute Resolution) which shall be sent by overnight mail or by certified or registered mail, return receipt requested. Each report, study, notification or other communication of EWV and ERI shall be submitted as specified in this Consent Decree, with copies to EPA Headquarters and the Applicable EPA Region and the Applicable State Agency. If the date for submission of a report, study, notification or other communication falls on a Saturday, Sunday or legal holiday, the report, study, notification or other communication will be deemed timely if it is submitted the next business day. Except as otherwise provided herein, all reports, notifications, certifications, or other communications required or allowed under this Consent Decree to be submitted or delivered to the United States, EPA, the State(s), EWV and ERI shall be addressed as provided in this Paragraph. Other than state air permit applications (§§ 19, 20, and 22), petitions to the court to invoke dispute resolution (§§ 54-62), and stipulated penalty payments (§ 46), EWV and ERI may submit Consent Decree submissions electronically, rather than by U.S. Mail, postage pre-paid, overnight mail or registered mail, return receipt requested,, where an e-mail address is provided below. Electronic submissions will be deemed submitted on the date they are transmitted electronically and only one electronic submission is required per recipient (to address instances in which the Consent Decree requires that two hard copies be submitted per recipient).

As to the United States:

Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611, Ben Franklin Station
Washington, DC 20044-7611
Reference Case No. 90-5-2-1-06064/1
richard.gladstein@usdoj.gov

As to EPA:

Reports to EPA shall be addressed to:

Director, Air Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
Mail Code 2242-A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460-0001

Chief, Air Enforcement Branch
Air Protection Division (3AP12)
U.S. Environmental Protection Agency, Region 3
1650 Arch Street
Philadelphia, PA 19103

and may be submitted electronically to:

csullivan@matrixnewworld.com
foley.patrick@epa.gov

Documents that any party is unable to submit electronically shall be submitted in hard copy to the addresses listed above, and to:

Director, Air Enforcement Division
Office of Civil Enforcement
c/o Matrix New World Engineering, Inc.
120 Eagle Rock Ave., Suite 207
East Hanover, NJ 07936-3159

As to the State of West Virginia:

West Virginia Department of Environmental Protection
Division of Air Quality
Northern Panhandle Regional Office
131 A Peninsula Street
Wheeling, WV 26003
Stevn.J.Sobutka@wv.gov

With a hard copy via regular mail to:

Director
West Virginia Division of Air Quality
601 57th Street, SE
Charleston WV 25304

As to the State of Mississippi:

Mississippi Department of Environmental Quality
Chief, Environmental Compliance & Enforcement Division
Office of Pollution Control
P.O. Box 2261
Jackson, MS 39289
les.herrington@deq.state.ms.us

With a hard copy via regular mail to the address listed above.

As to EVW:

Neil Stanton
Ergon-West Virginia, Inc.
P.O. Box 356
Newell, WV 26050
neil.stanton@ergon.com

As to ERI:

Ken Dillard
Ergon Refining, Inc.
2611 Haining Road
Vicksburg, MS 39181
ken.dillard@ergon.com

with copies to:

Paul W. Young, Jr., P.E., CSP
P.O. Box 1639
Jackson, MS 32915-1639
paul.young@ergon.com

LeAnn M. Johnson-Koch, Esquire
DLA Piper LLP (US)
500 Eighth Street, NW
Washington, DC 20004
leann.johnson@dlapiper.com

Any party may change either the notice recipient or the address for providing notices to it by serving all other parties with a notice setting forth such new notice recipient or address. In addition, the nature and frequency of reports required by the Consent Decree may be modified by mutual consent of the Parties. The consent of the United States to such modification must be in the form of a written notification from the Department of Justice, but need not be filed with the Court to be effective.

3. Paragraph 78, providing for EPA approvals for reports submitted by Defendants (if required by the applicable provision of the Consent Decree) is revised to read as follows:

78. **Approvals.** All EPA approvals or comments will be made in writing. All Plaintiff-Intervener approvals shall be sent from the offices identified in Paragraph 77.

4. The provisions of this Stipulated Order are effective upon the date of filing.

SO ORDERED this _____ day of _____, 2009.

HENRY T. WINGATE
UNITED STATES DISTRICT JUDGE

The undersigned party consents to this Stipulated Order modifying the Consent Decree in the matter of United States, et al. v. EWV and ERI-West Virginia Inc., et al.

FOR PLAINTIFF THE UNITED STATES OF AMERICA:

JOHN C. CRUDEN
Acting Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice

Date: August 14, 2009

s/s Richard Gladstein
RICHARD GLADSTEIN
Senior Counsel
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611

The undersigned party consents to this Stipulated Order modifying the Consent Decree in the matter of United States, et al. v. EWV and ERI-West Virginia Inc., et al.

FOR THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY:

Date: June 22, 2009

s/s Adam M. Kushner
ADAM M. KUSHNER
Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
Washington, D.C. 20460

Date: June 8, 2009

s/s John Fogarty
JOHN FOGARTY
Senior Attorney
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
Washington, D.C. 20460

The undersigned party consents to this Stipulated Order modifying the Consent Decree in the matter of United States, et al. v. EWV and ERI-West Virginia Inc., et al.

FOR PLAINTIFF-INTERVENOR THE STATE
OF WEST VIRGINIA

Date: July 23, 2009

s/s John A. Benedict
JOHN A. BENEDICT
Director
West Virginia Division of Air Quality

The undersigned party consents to this Stipulated Order modifying the Consent Decree in the matter of United States, et al. v. EWV and ERI-West Virginia Inc., et al.

FOR PLAINTIFF-INTERVENOR THE
MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

Date: July 15, 2009

s/s Trudy D. Fisher
TRUDY D. FISHER
Executive Director
Mississippi Department of Environmental Quality

The undersigned party consents to this Stipulated Order modifying the Consent Decree in the matter of United States, et al. v. EWV and ERI-West Virginia Inc., et al.

FOR DEFENDANT Ergon Refining, Inc.

Date: June 5, 2009

s/s H. Don Davis
H. DON DAVIS
Executive Vice-President, Manufacturing and
Planning
Ergon Refining, Inc.

Date: June 8, 2009

s/s/ Leann M. Johnson-Koch
LEANN M. JOHNSON-KOCH
DLA Piper LLP (US)
500 Eighth Street NW
Washington, DC 20004
(202) 799-4380
(202) 799-5380 (fax)

ATTORNEY FOR ERGON REFINING, INC.

The undersigned party consents to this Stipulated Order modifying the Consent Decree in the matter of United States, et al. v. EWV and ERI-West Virginia Inc., et al.

FOR DEFENDANT Ergon-West Virginia, Inc.

Date: June 8, 2009

s/s Lee Hampton
LEE LAMPTON
President of Operations
Ergon-West Virginia, Inc.

Date: June 8, 2009

s/s Leann M. Johnson-Koch
LEANN M. JOHNSON-KOCH
DLA Piper LLP (US)
500 Eighth Street NW
Washington, DC 20004
(202) 799-4380
(202) 799-5380 (fax)

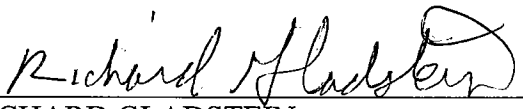
ATTORNEY FOR ERGON-WEST VIRGINIA,
INC.

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FOR PLAINTIFF THE UNITED STATES OF AMERICA:

JOHN C. CRUDEN
Acting Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice

Date: August 14, 2009


RICHARD GLADSTEIN
Senior Counsel
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611

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FOR THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY:

Date: 6-22-09



ADAM M. KUSHNER
Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
Washington, D.C. 20460

Date: 6.2.09

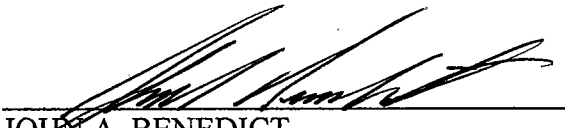


JOHN FOGARTY
Senior Attorney
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
Washington, D.C. 20460

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FOR PLAINTIFF-INTERVENOR THE STATE
OF WEST VIRGINIA

Date: July 23, 2009

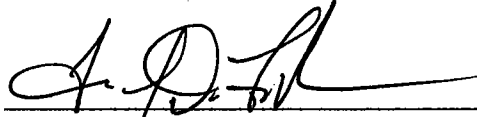


JOHN A. BENEDICT
Director
West Virginia Division of Air Quality

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FOR PLAINTIFF-INTERVENOR THE
MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

Date: 7-15-09



TRUDY D. FISHER

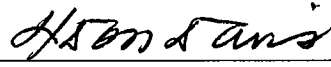
Executive Director

Mississippi Department of Environmental Quality

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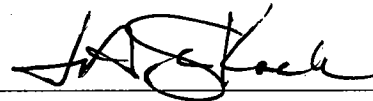
FOR DEFENDANT Ergon Refining, Inc.

Date: 6-5-09



H. DON DAVIS
Executive Vice-President, Manufacturing and
Planning
Ergon Refining, Inc.

Date: 6-8-09



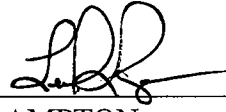
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ATTORNEY FOR ERGON REFINING, INC.

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FOR DEFENDANT Ergon-West Virginia, Inc.

Date: 6/8/09



LEE LAMPTON
President of Operations
Ergon-West Virginia, Inc.

Date: 6/8/09



LEANN M. JOHNSON-KOCH
DLA Piper LLP (US)
500 Eighth Street NW
Washington, DC 20004
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(202) 799-5380 (fax)

ATTORNEY FOR ERGON-WEST VIRGINIA,
INC.