



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION III
 1650 Arch Street
 Philadelphia, Pennsylvania 19103-2029**

In the Matter of:)	
)	EPA Docket No.: CAA-03-2011-0026
JBS Souderton, Inc.)	
249 Allentown Road)	
Souderton, Pennsylvania)	
18964,)	
)	Proceedings Pursuant to Sections 112(r) and
Respondent.)	113(d) of the Clean Air Act, as amended,
)	42 U.S.C. §§ 7412(r), 7413(d)
)	
JBS Souderton, Inc.)	
249 Allentown Road)	
Souderton, Pennsylvania)	
18964,)	
)	
Facility.)	
)	

RECEIVED
 REGION III
 PHILADELPHIA, PA
 11/15/11

CONSENT AGREEMENT AND FINAL ORDER

Statutory Authority

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Sections 113(a)(3)(A) and 113(d) of the of the Clean Air Act, (“CAA”), 42 U.S.C. §§ 7413(a)(3)(A), 7413(d). delegated to the Regional Administrator by EPA Delegation No. 7-6-A, and reddelegated to the Director, Hazardous Site Cleanup Division, EPA Region III (“Complainant”) by EPA Region III Delegation No. 7-6-A. This Consent Agreement is also proposed and entered into under the authority provided by the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits.”

Preliminary Statement and Stipulations

The Respondent, JBS Souderton, Inc. (“Respondent” or “JBS”), by its attorney or other authorized representative, and EPA stipulate as follows:

1. EPA issued an Administrative Complaint (“Complaint”) against JBS, docketed at No. CAA-03-2011-0026, on November 19, 2010. The Complaint alleges that Respondent violated Section 112(r)(7) of the Clean Air Act (“CAA”), as amended, 42 U.S.C. § 7412(r)(7), and its implementing regulations at 40 C.F.R. Part 68, by failing to do the following:

- a. Update the risk management plan for its facility located at 249 Allentown Road in Souderton, Pennsylvania (“Facility”), in violation of 40 C.F.R. § 68.190(b)(1);
- b. Develop and implement a management system for overseeing the implementation of the risk management program at the Facility, in violation of 40 C.F.R. § 68.15(a);
- c. Make a proper determination of worst case scenario quantity, in violation of 40 C.F.R. § 68.25(a)(2) and (b)(1); and
- d. Certify annually that operating procedures for the Facility are current and accurate, in violation of 40 C.F.R. § 68.69(c).

2. For the purpose of this proceeding, Respondent admits to the jurisdictional allegations of the Complaint.

3. For the purpose of this proceeding, except as provided in paragraph 2 above, Respondent neither admits nor denies the specific factual allegations contained in the Complaint, but expressly waives any right to contest said allegations and its right to appeal the proposed final order accompanying this consent agreement.

4. For the purpose of this proceeding, Respondent expressly waives its rights to a hearing and to appeal this Consent Agreement and accompanying Final Order (collectively, the “CA/FO”) under Section 113 of the CAA, 42 U.S.C. § 7413.

5. EPA incorporates by reference the factual allegations contained in the Complaint as the Findings of Fact for this Consent Agreement.

6. Based upon the Findings of Fact, EPA concludes that Respondent violated the provisions of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and its implementing regulations, specifically, 40 C.F.R. §§ 68.190(b)(1), 68.15(a), 68.25(a)(2) and (b)(1), and 68.68(c), by failing to update the risk management plan for the Facility, failing to develop and implement a management system to oversee implementation of the risk management program at the Facility, failing to make a proper determination of the worst case scenario quantity, and failing to certify annually that the operating procedures for the Facility are current and accurate.

7. As a result of the conclusion that Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. §§ 68.190(b)(1), 68.15(a), 68.25(a)(2) and (b)(1), and 68.68(c), EPA has determined that Respondent is liable for a civil penalty. In determining the amount of the civil penalty, the following factors have been taken into consideration: the size of the Respondent’s business, the economic impact of the penalty on the business, the Respondent’s

full compliance history and good faith efforts to comply, the duration of the violation, payment by the Respondent of any penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and any other such matters as justice may require. The agreed upon penalty is consistent with 40 C.F.R. Part 19 and EPA's *Combined Enforcement Policy for Section 112(r) of the Clean Air Act*, dated August 15, 2001.

Penalty

8. In settlement of the above-captioned action, Respondent consents to the assessment of a civil penalty of \$29,785.00. Based on the foregoing Stipulations and Findings, the parties, by their attorneys or authorized officials, hereby agree to the following:

9. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalties described in this CA/FO, Respondent shall pay the civil penalty of \$29,785.00 no later than thirty (30) days after the effective date of the Final Order (the "final due date") by either cashier's check, certified check, or electronic wire transfer. Payment of the civil penalty shall be made in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action;
- b. All checks shall be made payable to **United States Treasury**;
- c. All payments made by check and sent by regular mail shall be addressed to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. EPA
Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
D 68010727 Environmental Protection Agency

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

- h. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

10. The Respondent shall submit proof of the penalty payment, noting the title and docket number of this case, to the following persons:

Lydia Guy (3RC00)
Regional Hearing Clerk
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and

Allison F. Gardner (3RC42)
Senior Assistant Regional Counsel
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

11. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment by the final due date or to comply with the conditions in this CA/FO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

12. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a fully-executed copy of this CA/FO is mailed or hand-delivered to Respondent. However, EPA will waive interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

13. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the final due date and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

14. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

15. Failure by the Respondent to pay the \$29,785.00 penalty assessed by the Final Order in full by the final due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

General Provisions

16. The provisions of the CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

17. The CA/FO does not constitute a waiver, suspension or modification of the requirements of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), or any regulations promulgated thereunder.

18. This CA/FO resolves only those civil claims which are alleged in the Complaint. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including the Respondent in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CA/FO shall be construed to limit the United States' authority to pursue criminal sanctions.

19. Each party to this action shall bear its own costs and attorney's fees.

FOR JBS SOUDERTON, INC.

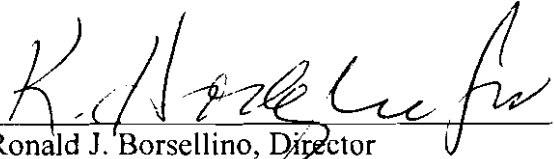
William Rupp
SIGNATURE

3/8/11
DATE

Name: William Rupp

Title: Head of Beef and Hides

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY



Ronald J. Borsellino, Director
Hazardous Site Cleanup Division



DATE



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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FINAL ORDER

Pursuant to Section 113 of the Clean Air Act, as amended ("CAA"), 42 U.S.C. § 7413, and in accordance with 40 C.F.R. Part 22, and based on the representations in the Consent Agreement, having determined that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the referenced Consent Agreement.

Effective Date

This Final Order shall become effective upon the date of its filing with the Regional Hearing Clerk.

Renee Sarajian

 Renee Sarajian
 Regional Judicial Officer
 EPA, Region III

4/12/11

 DATE



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION III
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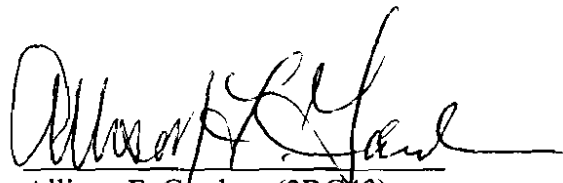
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of the signed Consent Agreement and Final Order with the Regional Hearing Clerk, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that true and correct copies of the Consent Agreement and Final Order were sent by first class mail to:

Steven P. Case, Esq.
 McGrath North Mullin & Kratz, PC LLO
 First National Tower, Suite 3700
 1601 Dodge Street
 Omaha, Nebraska 68102

4/12/11
 DATE


 Allison F. Gardner (3RC42)
 Senior Assistant Regional Counsel
 Counsel for Complainant
 (215) 814-2631