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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

IN THE MATTER OF:)
)
Sioux Pharm, Inc.)
121 19th Street SW)
Sioux Center, Iowa 51250)
)
and)
)
Sioux Biochemical, Inc.)
140 19th Street SW)
Sioux Center, Iowa 51250)
)
RCRA I.D. No. IAR000514380)
)
Respondent.)
)
Proceeding under Sections 3008(a) and (g) of)
the Resource Conservation and Recovery Act,)
as amended, 42 U.S.C. §§ 6928(a) and (g))
)

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No. RCRA-07-2015-0023

I. PRELIMINARY STATEMENT

The United States Environmental Protection Agency (EPA), Region 7 (Complainant) and Sioux Pharm, Inc. and Sioux Biochemical, Inc. (collectively "Respondents") have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

II. ALLEGATIONS

Jurisdiction

1. This administrative action is being conducted pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA) and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6928(a) and (g), and in accordance with the Consolidated Rules of Practice.

2. This Consent Agreement and Final Order (CAFO) serves as notice that EPA has reason to believe that Respondents violated Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations found at 40 C.F.R. § 262.

Parties

3. The Complainant is the Chief of the Waste Enforcement and Materials Management Branch in the Air and Waste Management Division of EPA, Region 7, who has been duly delegated the authority to bring this action by the Administrator of EPA.

4. The Respondents are Sioux Pharm, Inc. and Sioux Biochemical, Inc., located at 121 19th Street SW, Sioux Center, IA and 140 19th Street SW, Sioux Center, IA, respectively. Sioux Pharm, Inc. and Sioux Biochemical, Inc. are incorporated under the laws of Iowa and licensed to do business in the state of Iowa.

Statutory and Regulatory Framework

5. When EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.

6. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes a civil penalty of not more than \$25,000 per day for violations of Subchapter III of RCRA (Hazardous Waste Management). This figure has been adjusted upward for inflation pursuant to the Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19, so that penalties of up to \$32,500 per day are now authorized for violations of Subchapter III of RCRA that occur after March 15, 2004, through January 12, 2009. For violations of Subchapter III of RCRA that occur after January 12, 2009, penalties of up to \$37,500 per day are now authorized.

General Factual Allegations

7. Respondents are Iowa corporations authorized to conduct business in the State of Iowa and each Respondent is a "person" as defined in 40 C.F.R. § 260.10 and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

8. Sioux Pharm, Inc. (hereinafter "Sioux Pharm") is a pharmaceutical manufacturing facility that produces chondroitin sulfate. Sioux Pharm is located at 121 19th Street SW in Sioux Center, Iowa (hereinafter "Sioux Pharm Facility").

9. Sioux Pharm is the "owner," as that term is defined in 40 C.F.R. § 260.10, of the Sioux Pharm Facility.

10. Sioux Biochemical, Inc. (hereinafter "Sioux Biochemical") conducts analytical research and manufactures phosphatidylserine and biodiesel and also conducts contract pharmaceutical manufacturing. Sioux Biochemical is located at 140 19th Street SW in Sioux Center, Iowa (hereinafter "Sioux Biochemical Facility").

11. Sioux Biochemical is the "owner," as that term is defined in 40 C.F.R. § 260.10, of the Sioux Biochemical Facility.

12. The Sioux Pharm Facility contains processing units for Sioux Pharm and Sioux Biochemical.

13. The Sioux Biochemical Facility contains quality control labs for the process chemicals used by Sioux Pharm and products manufactured at Sioux Pharm.

14. The Sioux Biochemical Facility contains storage areas for chemicals generated by the Sioux Pharm Facility.

15. Sioux Pharm is located directly across 119th Street SW from Sioux Biochemical.

16. On or about May 9, 2011, Sioux Pharm and Sioux Biochemical obtained a single RCRA facility identification number of IAR000514380. As such, the Sioux Pharm Facility and Sioux Biochemical Facility will herein be collectively referred to as the "Facility," except when referring to specific locations of hazardous waste.

17. On April 13-15, 2010, EPA conducted a Resource Conservation and Recovery Act (RCRA) compliance evaluation inspection at the Facility.

18. At the time of the EPA inspection, Respondents were generating at least the following wastes at the Facility: Spent ethanol (D001 hazardous waste code); Spent acetone (F003 hazardous waste code); Acetonitrile waste (ACN waste) (D001 hazardous waste code); Isopropyl alcohol/hexane waste (F003 hazardous waste code); High Pressure Liquid Chromatography (HPLC) waste (D001 hazardous waste code); Autoclave indicator tape (D008 hazardous waste code); Spent fluorescent lamps (D009 hazardous waste code); Methylene chloride from HPLC cleaning (F002 waste code); and Spent nickel cadmium (Ni-Cd) batteries (D006 hazardous waste code).

19. The regulations for determining whether a waste is a solid and/or hazardous waste are set forth at 40 C.F.R. Part 261. Each of the wastes listed in paragraph 18 is a "solid waste" and are also "hazardous wastes" within the meaning of these regulations.

20. At the time of the EPA Inspection, the Sioux Biochemical Facility and Sioux Pharm Facility were collectively a "facility" as that term is defined in 40 C.F.R. § 260.10.

21. At the time of the EPA Inspection, Respondents were both an "operator" of a "facility" as those terms are defined in 40 C.F.R. § 260.10.

22. At the time of the EPA Inspection, Respondents were collectively a “generator” of “hazardous waste” as those terms are defined in 40 C.F.R. §§ 260.10 and 261.3.

23. At the time of the EPA inspection, Respondents were a Large Quantity Generator (LQG) of hazardous waste by accumulation pursuant to the regulations at 40 C.F.R. Part 262.

24. Based on information gathered during the EPA inspection, Respondents were issued a Notice of Violation.

25. On March 17, 2011, Respondents were issued a Letter of Warning/Request for Information relating to the Facility’s compliance status.

26. On December 18, 2013, Respondents were issued a Second Letter of Warning/Request for Information relating to the Facility’s compliance status.

27. Based upon information gathered during the inspection and Respondents’ responses to the Letters of Warning/Requests for Information, EPA documented violations of RCRA.

Alleged Violations

COUNT 1

FAILURE TO MAKE HAZARDOUS WASTE DETERMINATIONS

28. The allegations stated in paragraphs 7 through 27 are re-alleged and incorporated as if fully set forth herein.

29. The regulations at 40 C.F.R. § 262.11 state that a generator of “solid waste,” as that term is defined in 40 C.F.R. § 261.2, is required to determine if such solid waste is a hazardous waste.

30. At the time of the EPA inspection, the EPA inspector identified at least 31 solid waste streams at the Facility for which Respondents had not made a hazardous waste determination. The following subsets of those waste streams were determined by EPA to be hazardous waste:

- a. Spent ethanol: six full 55-gallon drums and one 5-gallon pail (1/2 full) in the large storage room of the Sioux Biochemical Facility, and one full 55-gallon drum in a lab room of the Sioux Biochemical Facility - D001 hazardous waste code
- b. Spent acetone: ninety-six 55-gallon drums of acetone in the large storage room of the Sioux Biochemical Facility, accumulated over 24 months, and four 55-gallon drums of acetone in the small storage room of the Sioux Biochemical Facility - F003 hazardous waste code

- c. ACN waste: one full drum and two full 4 liter jugs in the small storage room of the Sioux Biochemical Facility - D001 hazardous waste code
- d. Isopropyl alcohol/hexane waste: one 55-gallon drum (1/2 full) in the small storage room of the Sioux Biochemical Facility - F003 hazardous waste code
- e. HPLC waste: 1 liter bottle (1/3 full), with ACN and two 1 liter (1/2 full) bottles without ACN in the HPLC equipment lab of the Sioux Biochemical Facility - D001 hazardous waste code
- f. Autoclave indicator tape in the Sioux Biochemical Facility - D008 hazardous waste code
- g. Spent fluorescent lamps: 4 full boxes of 4 foot lamps, 7 full boxes of 8 foot lamps, 1 partially full box of U-shaped lamps, 4 unboxed 4 foot lamps, and 4 unboxed 8 foot lamps in the Sioux Pharm Facility - D009 hazardous waste code
- h. Methylene chloride from HPLC cleaning in the Sioux Biochemical Facility - F002 waste code
- i. Spent Ni-Cd batteries in the Sioux Pharm Facility - D006 hazardous waste code

31. Respondents' failure to make a hazardous waste determination on the above referenced solid waste streams is a violation of 40 C.F.R. § 262.11.

COUNT 2
OPERATION OF A HAZARDOUS WASTE FACILITY WITHOUT A RCRA
TREATMENT STORAGE AND DISPOSAL FACILITY (TSDF) PERMIT OR INTERIM
STATUS

32. The allegations stated in paragraphs 7 through 27 are re-alleged and incorporated as if fully set forth herein.

Operating a hazardous waste storage facility without a permit

33. Section 3005 of RCRA, 42 U.S.C. § 6925, states that the "treatment, storage, or disposal of any such hazardous waste... is prohibited except in accordance" with a permit.

34. The regulations at 40 C.F.R. § 262.34(a) allow a generator to accumulate hazardous waste on-site for 90 days or less without a permit provided that certain conditions are met.

35. At the time of the EPA inspection, Respondents had stored or were storing the following hazardous wastes:
- a. Acetone waste at the Sioux Biochemical Facility from approximately November 14, 2008 until May 31, 2011, when ninety-six 55-gallon drums of acetone waste were shipped off-site.
 - b. ACN waste at the Sioux Biochemical Facility from approximately November 2009 until June 16, 2011 when 55 gallons of ACN (including isopropyl alcohol/hexane) waste was shipped off-site.
 - c. One 55-gallon drum (1/2 full) of isopropyl alcohol/hexane waste at the Sioux Biochemical Facility from approximately November 2009 until June 16, 2011 when 55 gallons of ACN (including isopropyl alcohol/hexane) waste was shipped off-site.
 - d. Hazardous waste fluorescent lamps at the Sioux Pharm Facility from approximately April 2008 until August 25, 2010, when one hundred eighty-two 8 foot long lamps and eighty-seven 4 foot long lamps were shipped off-site.
 - e. Spent Ni-Cd batteries at the Sioux Pharm Facility from at least the date of the EPA inspection until April 25, 2011 when fifteen waste Ni-Cd batteries were shipped off-site.
36. Respondents' storage of hazardous waste at the Facility as set forth in paragraph 35 demonstrates storage of hazardous waste for over 90 days.
37. Respondents do not have a permit for the storage of hazardous waste.
38. Respondents' storage of hazardous waste at the Facility as set forth in paragraphs 35 through 37 is a violation of RCRA § 3005; 42 U.S.C. § 6925.

ii. Failure to comply with container management standards

39. In addition to illegally storing hazardous waste for over 90 days, Respondents failed to meet applicable federal regulatory requirements at the time of the EPA inspection. These requirements are listed at 40 C.F.R. § 262.34(a), and constitute conditions precedent to large quantity generators being allowed to store hazardous waste at their facility for up to 90 days without a permit. Failure to comply with these conditions means that a facility is not allowed to store hazardous waste for any length of time.

iii. Failure to accumulate hazardous waste in closed containers

40. The regulations at 40 C.F.R. § 262.34(a)(1)(i) require that while being accumulated on-site, the hazardous waste must be placed in containers and the generator must

comply with the applicable requirements of Subpart I of 40 C.F.R. Part 265.

41. Pursuant to 40 C.F.R. § 265.174, as found in 40 C.F.R. Part 265 Subpart I, the owner or operator must keep hazardous waste in a closed container during accumulation, except when it is necessary to add or remove waste.

42. At the time of the EPA inspection, twelve hazardous waste lamp containers were not closed.

43. At the time of the EPA inspection, one container of hazardous waste lamps and spent Ni-Cd batteries was not closed.

44. At the time of the EPA inspection, eight hazardous waste lamps were not placed in containers.

iv. Failure to label hazardous waste containers

45. The regulations at 40 C.F.R. § 262.34(a)(3) require the generator to label or mark clearly each container and tank accumulated on-site with the words "Hazardous Waste."

46. At the time of the EPA inspection, Respondents had accumulated the following hazardous waste containers that were not labeled or marked clearly with the words "Hazardous Waste": six 55-gallon drums of ethanol; ninety-six 55-gallon drums of acetone; one 55-gallon drum and two 4-liter jugs of ACN; one 55-gallon drum of isopropyl alcohol/hexane waste; twelve hazardous waste lamp containers; and one container of hazardous waste lamps and spent Ni-Cd batteries.

v. Failure to date hazardous waste containers

47. The regulations at 40 C.F.R. § 262.34(a)(2) require that each hazardous waste container accumulated on-site has the date upon which each period of accumulation began clearly marked and visible for inspection on each container.

48. At the time of the EPA inspection, Respondents had accumulated the following hazardous waste containers that had not been dated with the accumulation start date: six 55-gallon drums of ethanol; ninety-six 55-gallon drums of acetone; one 55-gallon drum and two 4-liter jugs of ACN; one 55-gallon drum of isopropyl alcohol/hexane waste; twelve hazardous waste lamp containers; and one container of hazardous waste lamps and spent Ni-Cd batteries.

vi. Failure to inspect hazardous waste accumulation containers

49. The regulations at 40 C.F.R. § 262.34(a)(1)(i) require that while being accumulated on-site, the hazardous waste must be placed in containers and the generator must comply with the applicable requirements of Subpart I of 40 C.F.R. Part 265.

50. The regulations at 40 C.F.R. § 265.174 require owners or operators to conduct at least weekly inspections of areas where hazardous waste containers are stored.

51. At the time of the EPA inspection, Respondents had not conducted at least weekly inspections of the areas storing the following accumulated hazardous waste: six 55-gallon drums of ethanol; ninety-six 55-gallon drums of acetone; one 55-gallon drum and two 4-liter jugs of ACN; one 55-gallon drum of isopropyl alcohol/hexane waste; twelve hazardous waste lamp containers; and one container of hazardous waste lamps and spent Ni-Cd batteries.

vii. Failure to comply with preparedness and prevention requirements

52. The regulations at 40 C.F.R. § 262.34(a)(4) require that generators comply with the requirements for owners or operators in subparts C and D in 40 C.F.R. Part 265, with 40 C.F.R. § 265.16, and with all applicable requirements under 40 C.F.R. Part 268.

53. The regulation at 40 C.F.R. § 265.35 requires the owner or operator to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of the facility in an emergency. between containers of hazardous waste to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility hazardous waste operations. At the time of the EPA inspection, Respondents failed to maintain hazardous waste containers with adequate aisle space in the small storage room of the Sioux Biochemical Facility.

54. As a result of Respondents' failure to comply with the requirements of 40 C.F.R. § 262.34(a)(1-4) as described in paragraphs 39 through 54, Respondents may not accumulate hazardous waste at the Facility without a permit for any length of time and therefore Respondents stored hazardous waste at the Facility in violation of RCRA § 3005; 42 U.S.C. § 6925.

viii. Failure to comply with satellite accumulation area requirements

55. The regulations at 40 C.F.R. § 262.34(c)(1)(i) allow an unpermitted waste generator to accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation provided, *inter alia*, the generator complies with the requirements set forth at 40 C.F.R. § 265.173(a).

ix. Failure to keep satellite area containers closed

56. The regulations at 40 C.F.R. § 265.173(a) state that containers holding hazardous waste must always be closed during storage, except where necessary to add or remove waste.

57. At the time of the EPA inspection, Respondents failed to close one full 55-gallon drum of hazardous waste (ethanol) located in Room 131 of the Sioux Biochemical Facility and one 1/2 full 5-gallon pail of hazardous waste (ethanol) in a small storage room of the Sioux Biochemical Facility.

x. *Failure to label satellite area containers*

58. The regulations at 40 C.F.R. 262.34(c)(1)(ii) allow an unpermitted waste generator to accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation, provided the containers are marked with the words "Hazardous Waste" or with other words that identify the contents of the containers.

59. At the time of the EPA inspection, Respondents had failed to label one full 55-gallon drum of hazardous waste (ethanol) in Room 131 of the Sioux Biochemical Facility and one 1/2 full 5-gallon pail of hazardous waste (ethanol) in a small storage room of the Sioux Biochemical Facility.

60. Respondents' failure to close and label the satellite accumulation containers as required by 40 C.F.R. §§ 262.34(c)(1)(i), 262.34(c)(1)(ii) and 265.173(a), as described in paragraphs 55 through 59 is a violation of RCRA § 3005; 42 U.S.C. § 6925.

COUNT 3
OFFERING HAZARDOUS WASTE TO A TRANSPORTER LACKING AN EPA IDENTIFICATION NUMBER AND FAILURE TO COMPLY WITH THE MANIFEST SYSTEM

61. The allegations stated in paragraphs 7 through 27 are re-alleged and incorporated as if fully set forth herein.

a. Offering Hazardous Waste to a Transporter Lacking an EPA Identification Number

62. The regulations at 40 C.F.R. § 262.12(c) state that a generator may not offer their hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

63. On May 27, 2011, Respondents shipped 36 drums of acetone hazardous waste via contract carrier, YRC Transportation, to Hukill Chemical Corporation.

64. On May 31, 2011, Respondents shipped 96 drums of acetone hazardous waste via contract carrier, Kerry Transport, to Hukill Chemical Corporation.

65. On June 3, 2011, Hukill Chemical Corporation sent a manifest discrepancy report to EPA indicating YRC Transportation and Kerry Transport lacked EPA Identification numbers.

66. Respondents offering of acetone hazardous waste for transport to transporters without EPA Identification Numbers is a violation of 40 C.F.R. § 262.12(c).

b. Failure to Comply with the Manifest System

67. The regulations at 40 C.F.R. § 262.20 state that a generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, must prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A, according to the instructions included in the appendix to 40 C.F.R. Part 262.

68. Respondent offered hazardous waste for transport and disposal as described in paragraphs 63 and 64 without preparing a Manifest.

69. Respondents offering of hazardous waste for transport and disposal without preparing a Manifest is a violation of 40 C.F.R. § 262.20.

COUNT 4
FAILURE TO OBTAIN AN EPA IDENTIFICATION NUMBER

70. The allegations stated in paragraphs 7 through 27 are re-alleged and incorporated as if fully set forth herein.

71. The regulations at 40 C.F.R. § 262.12(a) state that a generator of hazardous waste must not treat, store, or dispose of hazardous waste without obtaining an EPA identification number.

72. From at least the time of the EPA inspection until at least June 26, 2011, Respondents were generating and storing hazardous waste.

73. Respondents did not have an EPA identification number from at least the time of the EPA inspection until May 9, 2011, when Respondents submitted a request for an EPA identification number.

74. Respondents' failure to obtain an EPA identification number prior to storing hazardous waste is a violation of 40 C.F.R. § 262.12(a).

III. CONSENT AGREEMENT

75. Respondents and EPA agree to the terms of this Consent Agreement and Final Order and Respondents agree to comply with the terms of this Consent Agreement and Final Order.

76. Respondents admit the jurisdictional allegations of this Consent Agreement and Final Order and agree not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Consent Agreement and Final Order.

77. Respondents neither admit nor deny the factual allegations set forth in this Consent Agreement and Final Order.

78. Respondents waive their right to a judicial or administrative hearing on any issue of fact or law set forth in this Consent Agreement and Final Order, and their right to appeal the proposed Final Order portion of this Consent Agreement and Final Order.

79. Respondents and Complainant agree to conciliate the matters set forth in this Consent Agreement and Final Order without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

80. This Consent Agreement and Final Order resolves all civil administrative claims for the alleged RCRA violations identified in this Consent Agreement and Final Order. Complainant reserves the right to take enforcement action against Respondents for any violations of RCRA, or any violation of any other applicable law, not alleged in the Consent Agreement and Final Order and to enforce the terms and conditions of this Consent Agreement and Final Order.

81. Nothing contained in this Consent Agreement and Final Order shall alter or otherwise affect Respondents' obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

82. Each Respondent certifies that by signing this Consent Agreement and Final Order that to the best of its information and belief, the Facility is in compliance with all requirements of RCRA, 42 U.S.C. § 6901 et. seq. and all regulations promulgated thereunder.

83. The effect of settlement described in paragraph 80 above is conditioned upon the accuracy of Respondents' representations to EPA, as memorialized in paragraph 82 above of this Consent Agreement and Final Order.

84. The undersigned representative of each Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

85. This Consent Agreement and Final Order shall apply to and be binding upon Respondents and Respondents' agents, successors and/or assigns. Respondents shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondents with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

86. Respondents consent to performance of the compliance actions specified in paragraph 4 of the Final Order below.

87. Respondents agree that in settlement of the claims alleged above, Respondents shall pay a civil penalty of \$156,865 as set forth in paragraph 1 of the Final Order below.

88. The penalty specified in Paragraph 87 above shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, state, or local income tax purposes.

89. Late Payment Provisions: Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the date required. Interest will be assessed at a rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b). A charge will be assessed to cover the costs of debt collection including processing and handling costs and attorneys' fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 31 C.F.R. §§ 901.9(c) and (d).

90. Respondents understand that failure to pay any portion of the civil penalty on the date the same is due may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest thereon at the applicable statutory rate.

91. Notwithstanding any other provision of this Consent Agreement and Final Order, EPA reserves the right to enforce the terms of this Consent Agreement and Final Order by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondents in an amount provided herein or, if not specified, an amount not to exceed \$37,500 per day per violation pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law.

92. This Consent Agreement and Final Order shall be effective upon filing. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

IV. FINAL ORDER

Pursuant to the authority of Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g), and according to the terms of this Consent Agreement and Final Order, IT IS HEREBY ORDERED THAT:

A. Payment of Civil Penalty

1. Respondent shall pay a civil penalty of One Hundred Fifty-Six Thousand Eight Hundred Sixty-Five Dollars (\$156,865), plus interest, as set out in Exhibit 1 to this Order.

2. Payment of the penalty may be submitted on-line at www.pay.gov by entering "SFO 1.1" in the "Search Public Forms" field. Open the on-line form and complete required fields to complete payment. Respondents shall print a copy of each payment receipt and mail a copy of each receipt to EPA's representative identified in this paragraph and in paragraph 5 below:

Regional Hearing Clerk
Enforcement Coordination Office
U.S. EPA Region VII
11201 Renner Blvd.
Lenexa, Kansas 66219.

Payments may also be made by cashier or certified check made payable to "Treasurer of the United States" and remitted to:

US Environmental Protection Agency
Fines and Penalties - CFC
PO Box 979077
St. Louis, MO 63197-9000.

The Respondents shall reference the EPA Docket Number on the checks. A copy of the checks shall be provided to EPA's representative identified in this paragraph and in paragraph 5 below.

3. Failure to pay any portion of the civil penalty on the date the same is due may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest and penalties.

B. Compliance Actions

4. Within 30 days of the effective date of this Consent Agreement and Final Order, unless otherwise specified, Respondents shall conduct the following activities at the Facility in accordance with the terms, conditions, and time periods specified below:

- a. Respondents shall submit to EPA a solid waste inventory that includes all solid waste currently generated by the Facility and submit to EPA the results of a hazardous waste determination, conducted in accordance with the procedures in 40 C.F.R. Part 261 and 40 C.F.R. § 262.11, for each solid waste generated by the Facility.
- b. Respondents shall either:
 - i. Cease use of the ethanol distillation unit for disposal of spent ethanol generated by the lab and other locations of the Facility; or
 - ii. Shall treat all materials managed by the ethanol distillation unit as hazardous waste; or

- iii. Shall operate a closed-loop recycling unit in accordance with all applicable regulations.

Respondents shall provide documentation of the procedure that Respondents intend to follow.

- c. Respondents shall update their hazardous waste notification for the Facility, in accordance with 40 C.F.R. § 262.12, to reflect their current operating status and all applicable hazardous waste codes, considering monthly generation rates of the hazardous waste identified pursuant to paragraph 4.a of this Final Order.
 - d. Respondents shall submit to EPA a written protocol for assuring hazardous waste determinations are properly made in a timely manner for every solid waste generated.
 - e. Respondents shall develop and implement all emergency management procedures required of a large or small quantity generator, as appropriate, as detailed at 40 C.F.R. § 262.34, unless Respondents demonstrate, pursuant to subparagraph a, that it is not a large or small quantity generator. Documentation of the emergency management procedures shall be submitted to EPA.
 - f. For a period of one year following the effective date of this Final Order, Respondents shall submit to EPA copies of all hazardous waste disposal records, including hazardous waste manifests, for all hazardous waste shipped off-site. Copies shall be submitted to EPA within 30 days of off-site shipment.
 - g. Respondents shall develop, implement, and submit documentation to EPA of procedures that insure that hazardous waste is shipped in an appropriate manner, in accordance with 40 C.F.R. Part 262.
5. All documentation required by paragraph 4 of this Final Order shall be sent to:

Edwin G. Buckner, P.E.
AWMD/WEMM
U.S. EPA, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

6. EPA may provide comments concerning any submittal required to be submitted to EPA pursuant to paragraph 4 of this Final Order. Respondents shall, within 30 days of receipt of any comments, correct all deficiencies and resubmit the corrected documentation to EPA.

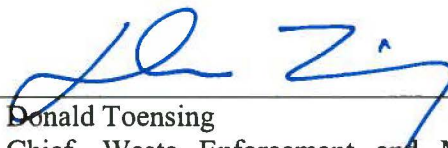
C. Parties Bound

7. This Final Order portion of this Consent Agreement and Final Order shall apply to and be binding upon Complainant and Respondents, and Respondents' agents, successors and/or assigns. Respondents shall take steps to ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondents with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

FOR COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

6-4-15

Date



Donald Toensing
Chief, Waste Enforcement and Materials
Management Branch
Air and Waste Management Division
U.S. Environmental Protection Agency
Region 7

6-5-15

Date



Jonathan Meyer
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 7

FOR RESPONDENT:
SIOUX PHARM, INC.

5/19/15
Date


Signature

Allan Kramer
Printed Name

President
Title

FOR RESPONDENT:
SIOUX BIOCHEMICAL, INC.

5/19/15
Date


Signature

Allan Kramer
Printed Name

President
Title

IT IS SO ORDERED. This Final Order is effective upon its final entry by the Regional Judicial Officer.

6-18-15

Date

Karina Borrromeo

Karina Borrromeo
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 7

Exhibit 1

Sioux Pharm. Payment Plan

Rate Period : Exact Days

Nominal Annual Rate : 1.000 %

CASH FLOW DATA

Event	Date	Amount	Number	Period	End Date
1 Penalty	06/02/2015	156,865.00	1		
2 Payment	07/01/2015	39,370.42	1		
3 Payment	08/30/2015	39,370.42	1		
4 Payment	11/28/2015	39,370.42	1		
5 Payment	02/26/2016	39,370.42	1		

AMORTIZATION SCHEDULE - U.S. Rule (no compounding), 360 Day Year

	Date	Penalty	Payment	Interest	Principal	Balance
Penalty	06/02/2015	156,865.00				156,865.00
Payment	07/01/2015		39,370.42	126.36	39,244.06	117,620.94
Payment	08/30/2015		39,370.42	196.03	39,174.39	78,446.55
Payment	11/28/2015		39,370.42	196.12	39,174.30	39,272.25
2015 Totals		156,865.00	118,111.26	518.51	117,592.75	
Payment	02/26/2016		39,370.42	98.17	39,272.25	0.00
2016 Totals		0.00	39,370.42	98.17	39,272.25	
Grand Totals		156,865.00	157,481.68	616.68	156,865.00	

IN THE MATTER OF Sioux Pharm, Inc. And Sioux Biochemical, Inc., Respondent
Docket No. RCRA-07-2015-0023

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy by email to Attorney for Complainant:

meyer.jonathan@epa.gov

Copy by email to Attorney for Respondent:

cfbecker@belinmccormick.com

Dated: 01/18/15



Kathy Robinson
Kathy Robinson
Hearing Clerk, Region 7