EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Maximilian Baal (Name of Case Attorney) 1/29/18 (Date)

in the ORC (RAA) (Office & Mail Code) at 918-1113 (Phone number)

Case Docket Number CAA-01-2018-0003 & CERCLA-01-2018-0004

Site-specific Superfund (SF) Acct. Number _____

✓ This is an original debt ____ This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Guida-Seibert Dairy Company
433 Park Street
New Britain, CT 06501

Total Dollar Amount of Receivable $ 152,364 Due Date: 3/1/18

SEP due? Yes _____ No ✓ Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1ST $ _____ on _____

2nd $ _____ on _____

3rd $ _____ on _____

4th $ _____ on _____

5th $ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____ _____
in the Financial Management Office Phone Number

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

January 29, 2018

BY HAND-DELIVERY

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 1
5 Post Office Square, Suite 100
Mailcode ORC 04-6
Boston, MA 02109-3912

Re: *In the Matter of Guida-Seibert Dairy Company*
Docket No. CAA-01-2018-0003 and CERCLA-01-2018-0004

Dear Ms. Santiago:

Enclosed for filing in the above-referenced action, please find the original and one copy of a Consent Agreement and Final Order.

Thank you for your attention to this matter.

Sincerely,

Maximilian Boal
Enforcement Counsel

Enclosure

cc: Amy L. Wachs, Esq., for Respondent

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF The Guida-Seibert Dairy Company 433 Park Street New Britain, CT 06501 Respondent.	Docket No. CAA-01-2018-0003 and CERCLA-01-2018-0004 **CONSENT AGREEMENT AND FINAL ORDER**

CONSENT AGREEMENT

The United States Environmental Protection Agency, Region 1 ("EPA" or "Complainant") and Respondent Guida-Seibert Dairy Company ("Respondent"), enter into this Consent Agreement and Final Order ("CAFO") by mutual consent pursuant to 40 C.F.R § 22.13(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination, or Suspension of Permits, 40 C.F.R. Part 22 ("Consolidated Rules of Practice"). This CAFO resolves Respondent's liabilities for (a) alleged violations of the chemical accident prevention provisions of Section 112(r)(7) of the Clean Air Act ("CAA"), 42 U.S.C. § 7412(r)(7), and implementing federal regulations found at 40 C.F.R. Part 68, and (b) an alleged violation of Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, ("CERCLA"), 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6(a) for failure to submit a timely report of a release of ammonia to the National Response Center.

EPA and Respondent agree to settle this matter through this CAFO without the filing of an administrative complaint, as authorized under 40 C.F.R. § 22.13(b) and 22.18(b). EPA and Respondent agree that settlement of this cause of action is in the public interest and that entry of this CAFO without litigation is the most appropriate means of resolving this matter.

NOW, THEREFORE, before taking any testimony, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

I. STATUTORY AND REGULATORY BASIS

CAA Statutory and Regulatory Authority

1. Section 112(r) of the CAA, 42 U.S.C. § 7412(r), authorizes EPA to promulgate regulations and programs in order to prevent and minimize the consequences of accidental releases of certain regulated substances. In particular, Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates that EPA promulgate a list of substances that are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment if accidentally released. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), requires that EPA establish, for each listed substance, the threshold quantity over which an accidental release is known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health. Finally, Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires EPA to promulgate requirements for the prevention, detection, and correction of accidental releases of regulated substances, including a requirement that owners or

operators of certain stationary sources prepare and implement a Risk Management Plan ("RMP").

2. The regulations promulgated pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), are found at 40 C.F.R. Part 68.

3. Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), renders it unlawful for any person to operate a stationary source subject to the regulations promulgated under the authority of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), in violation of such regulations.

4. Forty C.F.R. § 68.130 lists the substances regulated under Part 68 ("RMP chemicals" or "regulated substances") and their associated threshold quantities, in accordance with the requirements of Sections 112(r)(3) and (7) of the CAA, 42 U.S.C. §§ 7412(r)(3) and (7). This list includes anhydrous ammonia as an RMP chemical and identifies a threshold quantity of 10,000 pounds.

5. A "process" is defined by 40 C.F.R. § 68.3 as any activity involving a regulated substance, including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities.

6. Under 40 C.F.R. § 68.10, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process must comply with the requirements of Part 68 by no later than the latest of the following dates: (a) June 21, 1999; (b) three years after the date on which a regulated substance is first listed under 40 C.F.R. § 68.130; or (c) the date on which a regulated substance is first present above a threshold quantity in a process.

7. Each process in which a regulated substance is present in more than a threshold quantity ("covered process") is subject to one of three risk management programs. Program 1 is the least comprehensive, and Program 3 is the most comprehensive. Pursuant to 40 C.F.R. § 68.10(b), a covered process is subject to Program 1 if, among other things, the distance to a toxic or flammable endpoint for a worst-case release assessment is *less* than the distance to any public receptor. Under 40 C.F.R. § 68.10(d), a covered process is subject to Program 3 if the process does not meet the eligibility requirements for Program 1 and is either in a specified NAICS code or subject to the Occupational Safety and Health Administration ("OSHA") process safety management ("PSM") standard at 29 C.F.R. § 1910.119. Under 40 C.F.R. § 68.10(c), a covered process that meets neither Program 1 nor Program 3 eligibility requirements is subject to Program 2.

8. Anhydrous ammonia in an amount over the threshold quantity of 10,000 pounds is subject to OSHA's PSM requirements at 29 C.F.R. § 1910.119.

9. Forty C.F.R. § 68.12 mandates that the owner or operator of a stationary source subject to the requirements of Part 68 submit an RMP to EPA, as provided in 40 C.F.R. § 68.150. The RMP documents compliance with Part 68 in a summary format. For example, the RMP for a Program 3 process documents compliance with the elements of a Program 3 Risk Management Program, including 40 C.F.R. Part 68, Subpart A (including General Requirements and a Management System to Oversee Implementation of RMP); 40 C.F.R. Part 68, Subpart B (Hazard Assessment to Determine Off-Site Consequences of a Release); 40 C.F.R. Part 68, Subpart D

(Program 3 Prevention Program); and 40 C.F.R. Part 68, Subpart E (Emergency Response Program).

10. Additionally, 40 C.F.R. § 68.190(b) also requires that the owner or operator of a stationary source must revise and update the RMP submitted to EPA at least once every five years from the date of its initial submission or most recent update. Other aspects of the prevention program must also be periodically updated.

11. Sections 113(a) and (d) of the CAA, 42 U.S.C. §§ 7413(a) and (d), as amended by EPA's 2008 Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, promulgated in accordance with the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701, and the Federal Civil Penalties Inflation Act Improvements Act of 2015, Section 701 of Public Law 114-74, 129 Stat. 599 (Nov. 2, 2015), provide for the assessment of civil penalties for violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), in amounts up to $37,500 per day per violation for violations occurring from January 13. 2009 to November 2, 2015, and up to $46,192 per day per violation for violations occurring after November 2, 2015. For violations occurring after November 2, 2015, the statutory maximum penalty per day of violation will increase annually depending on when the penalty is assessed (rather than when the violation occurred). The current statutory maximum penalty for CAA violations assessed pursuant to Section 113(d) of the CAA is $46,192 per day per violation.

12. EPA and the United States Department of Justice have determined that this action is an appropriate administrative penalty action under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1).

CERCLA Statutory and Regulatory Authority

13. Pursuant to Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, ("CERCLA"), 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6(a), any person in charge of an onshore facility must report the non-permitted release of a hazardous substance from the facility to the National Response Center as soon as that person has knowledge of such a release in an amount equal to or greater than the reportable quantity, as determined pursuant to Section 102 of CERCLA, 42 U.S.C. § 9602.

14. Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), requires the Administrator of EPA to, among other things, promulgate regulations establishing the reportable quantities of any hazardous substance.

15. EPA promulgated the federal regulations known as the CERCLA Notification Rules, 40 C.F.R. Part 302, to implement Sections 102 and 103 of CERCLA. These regulations designate the hazardous substances subject to notification requirements, identify the reportable quantities for those substances, and set forth the notification requirements for those substances.

16. Forty C.F.R. § 302.6 requires, among other things, that any person in charge of an onshore facility report the non-permitted release of a hazardous substance from the facility to the National Response Center as soon as that person has knowledge of such a release in an amount equal to or greater than the reportable quantity.

17. Sections 109(a) and (b) of CERCLA, 42 U.S.C. §§ 9609(a) and (b), as amended by EPA's Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, promulgated in accordance with the DCIA, 31 U.S.C. § 3701, provide for the assessment of civil penalties for

violations of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a) in amounts of up to $37,500 per day for violations occurring from January 13, 2009 to November 2, 2015. Section 109(b) of CERCLA, 42 U.S.C. § 9609(b) specifies higher penalties for subsequent violations.

III. GENERAL ALLEGATIONS

18. The Respondent Guida-Siebert Dairy Company is a corporation incorporated under the laws of Connecticut and owns a milk production facility located at 433 Park Street, New Britain, CT, 06051 ("the Facility").

19. The Facility is located in New Britain, Connecticut, and according to the U.S. Census data from 2010, several thousand people live near the Facility.

20. Respondent is a "person" within the meaning of Section 302(e) of the Act, 42 U.S.C. § 7602(e), against whom an administrative order assessing a civil penalty may be issued under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1).

21. The Facility has been in use as a dairy since 1886, and at the time of EPA's inspection, included a milk production site, office space, chemical storage, warehousing, and production areas.

22. The Facility includes an ammonia refrigeration system for cooling milk, orange juice, and other products.

23. On August 27, 2014, EPA inspectors visited the Facility and performed an inspection ("the Inspection") to assess Respondent's compliance with Section 112(r) of the CAA.

24. At the time of the Inspection, the Facility was a building or structure from which an accidental release may occur and was therefore a "stationary source," as defined at Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.

25. At all times relevant to the violations alleged herein, Respondent was the "owner or operator" of the Facility, as defined at Section 112(a)(9) of the CAA, 42 U.S.C. § 7412(a)(9).

26. At the time of the Inspection, Respondent used anhydrous ammonia in a refrigeration process ("the Process"), as defined by 40 C.F.R. § 68.3.

27. Respondent conducted a Process Hazard Analysis ("PHA") for the Facility on January 19-20, 2010.

28. On May 30, 2013, Respondent submitted an RMP submission for the Facility ("the 2013 RMP"). In the 2013 RMP, Respondent reported that the Facility used 11,500 pounds of anhydrous ammonia in a Program Level 3 process.

29. Respondent submitted Tier II reports pursuant to Sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. §§ 11021 and 11022, reporting that the Facility used the following quantities of ammonia:

a. Over 10,000 pounds of anhydrous ammonia in reporting year 2011.

b. Over 10,000 pounds of anhydrous ammonia in reporting year 2012.

c. 12,400 pounds of anhydrous ammonia in reporting year 2013.

30. Accordingly, at the time of the Inspection, the Process was a "covered process" subject to the provisions of Part 68 because Respondent "used," "stored," and "handled" the

RMP chemical anhydrous ammonia at the Facility in the process in an amount greater than 10,000 pounds.

31. According to Respondent's 2013 RMP, there were public receptors within the distance to the endpoint for a worst case release of the amount of anhydrous ammonia used in the Process. Likewise, modeling performed by EPA indicates that the endpoint for a worst case release from the Process is greater than the distance to a public receptor.

32. Additionally, at the time of the Inspection, the Process was subject to OSHA's PSM requirements at 29 C.F.R. § 1910.119 because it uses anhydrous ammonia in an amount over the threshold quantity of 10,000 pounds.

33. Therefore, in accordance with 40 C.F.R. § 68.10(a)–(d), Respondent's use, storage, and handling of anhydrous ammonia in its Process at the Facility is subject to the requirements of RMP Program 3.

34. Ammonia presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Exposure to 300 parts per million is immediately dangerous to life and health. Ammonia is also flammable at concentrations of approximately 16% to 25% by volume in air. It can explode if released in an enclosed space with a source of ignition present, or if a vessel containing anhydrous ammonia is exposed to fire. In light of the potential hazards posed by the mishandling of anhydrous ammonia, industry trade associations have issued standards outlining the recognized and generally accepted good engineering practices ("RAGAGEP") in the ammonia refrigeration industry. In collaboration with the American National Standards Institute ("ANSI"), the International Institute of Ammonia Refrigeration ("IIAR") has issued (and

updates) "Standard 2: Equipment, Design, and Installation of Closed-Circuit Ammonia Mechanical Refrigerating Systems," along with other applicable standards and guidance. Also in collaboration with the American National Standards Institute, the American Society of Heating, Refrigerating and Air-Conditioning Engineers ("ASHRAE") has issued (and updates) "Standard 15: Safety Standard for Refrigeration Systems." These standards are consistently relied upon by refrigeration experts and are sometimes incorporated into state building, fire, and mechanical codes.

35. The Inspection and EPA's review of subsequently submitted information, including the 2013 RMP submission, revealed some potentially dangerous conditions relating to the Process, including:

a. Failure to register as an RMP facility in accordance with 40 C.F.R. §§ 68.10, 68.12, 68.150(a), and 68.150(b)(3). Respondent failed to comply with RMP facility registration requirements by failing to submit its RMP to EPA by the date on which anhydrous ammonia was first present above the threshold quantity of 10,000 pounds in the Process at the Facility, which was at least by 2011. Respondent's EPCRA Tier II reporting indicates that the Facility used over 10,000 pounds of ammonia at least by 2011. Respondent first submitted an RMP for the Facility on May 30, 2013.

b. Failure to comply with Program 3 training requirements in accordance with 40 C.F.R. § 68.71. For the time period before 2014, at the time of the Inspection, Respondent failed to produce any records documenting initial or refresher training of employees to perform routine maintenance on the Covered Process or detailing what to look for during an

inspection of the Process performed by Respondent' employees. Respondent had no formal documentation or formal written program outlining any Facility-specific operating training before 2014. Respondent was required to comply with the training requirements of Part 68 beginning when the Facility first began using over 10,000 pounds of anhydrous ammonia, which occurred at least by 2011. Respondent has subsequently located and provided additional training records. Refresher training on the Covered Process is required at a minimum of every three years following initial training.

c. Failure to maintain and comply with process safety information requirements in accordance with 40 C.F.R. § 68.65. Respondent failed to comply with process safety information requirements, including failure to document that either the equipment complied with RAGAGEP or that existing equipment designed and constructed in accordance with codes, standards, or practices that are no longer in general use was designed, maintained, inspected, tested, and operated in a safe manner. For Respondent's Process, at the time of the Facility's last PHA before EPA's Inspection, applicable RAGAGEP sources included: Int'l Inst. of Ammonia Refrigeration, Standard 2-2008, with Addendum A: Equipment, Design, and Installation of Closed-Circuit Ammonia Mechanical Refrigerating Systems (August 4, 2010), [hereinafter "IIAR 2-2008"]; Int'l Inst. of Ammonia Refrigeration, Bulletin No. 109: IIAR Minimum Safety Criteria for a Safe Ammonia Refrigeration System, [hereinafter "IIAR Bull. 109"]; Int'l Inst. of Ammonia Refrigeration, Bulletin No. 110: Guidelines for: Start-up, Inspection and Maintenance of Ammonia Mechanical Refrigerating Systems [hereinafter "IIAR Bull. 110"]; Int'l Inst. of Ammonia Refrigeration, Bulletin No. 114: Guidelines for Identification

of Ammonia Refrigeration Piping and System Components [hereinafter "IIAR Bull. 114"]; and, Am. Nat'l Standards Inst./Am. Soc'y of Heating, Refrigerating and Air-Conditioning Eng'rs, Standard 15-2010: Safety Standard for Refrigeration Systems, [hereinafter "ASHRAE 15-2010"]. In addition, at the time of the Inspection, significant portions of the ammonia refrigeration system at the Facility did not meet these standards. Normal day-to-day maintenance and inspection was substantially lacking. Specific issues identified, include:

i. At the time of the Inspection, the Facility lacked an eyewash station or body shower outside the entrance to the machinery room. The standard industry practice is to maintain an eyewash station and body shower unit located external to the machinery room and readily accessible by an exit. *See e.g.,* IIAR 2-2008, supra, § 13.1.6 and Bull. 109, supra, § 4.10.10.

ii. At the time of the Inspection, all but one of the Facility's pressure relief device headers on the roof was directed downward. The standard industry practice is for the discharge from pressure relief devices to the atmosphere to be arranged to avoid spraying of refrigerant on persons in the vicinity. *See e.g.,* IIAR 2-2008, supra, § 11.3.6.4. In addition, standard industry practice is to prefer the direction of discharge to be vertically upwards. *See e.g.,* IIAR 2-2008, supra, § 11.3.6.3.

iii. At the time of the Inspection, a significant amount of piping in the ammonia refrigeration system had damaged or missing labeling. The standard industry practice is for all piping mains, headers, and branches to be identified as to the physical state of the refrigerant (that is, vapor or liquid, etc.), the relative pressure level of the refrigerant, and the

direction of flow. The standard industry practice is to use an identification system that is either one established as a standard by a recognized code or standards body or one described and documented by the facility owner. *See e.g.,* IIAR 2-2008, supra, § 10.5 and IIAR Bull. 114 supra, and IIAR Bull. 109, supra, § 4.7.6.

iv. At the time of the Inspection, the manual king valves were located approximately eight to ten feet above the roof grade and were not readily accessible from the ground or via a platform, and were not operated by a chain. The standard industry practice is for all manually operated valves that are inaccessible from floor level to be operable from portable platforms, fixed platforms, ladders, or to be chain-operated. Isolation valves identified as being part of an emergency shutdown procedure should be directly operable or chain-operated from a permanent work surface. *See* IIAR 2-2008, supra, § 13.1.2.3. In addition, at the time of the Inspection, the automated and manual king valves on the high pressure receiver at the Facility were not labeled with prominent signs identifying the location of the valves. The standard industry practice is for main shut-off valves (king valves); hot gas defrost line main shut-off valves; and ammonia pump liquid main shut-off valves and/or disconnects of the ammonia system should be readily accessible and identified with a prominent sign having letters sufficiently large to be easily read. *See* IIAR Bull. 109, supra, § 4.10.3.

d. Failure to comply with the mechanical integrity requirements for the Process, in accordance with 40 C.F.R. § 68.73. Respondent failed to establish a program to perform appropriate checks and inspections of the entire Covered Process to ensure that equipment was installed properly and consistent with design specifications and the

manufacturer's instructions and RAGAGEP. Respondent also failed to correct equipment deficiencies in accordance with 40 C.F.R § 68.73. Normal day-to-day maintenance and inspection was substantially lacking. Specific issues identified, include:

i. At the time of the Inspection, sections of piping and system components exhibited signs of corrosion or had insulation, lagging, and paint that were in poor condition, which increases the potential for corrosion related problems. The standard industry practice is to inspect ammonia piping for damage to insulation, damage to lagging, and for corrosion and to make timely corrective actions. *See e.g.*, IIAR Bull. 109, supra, § 4.7 and IIAR Bull. 110, supra, Appendix G—Typical Schedule for Inspection and Maintenance.

ii. At the time of the Inspection, at least one of the piping supports for the ammonia piping present on the roof was severely corroded and was not supporting the pipe. The standard industry practice is for piping hangers and supports to be able to carry the weight of the piping, as well as any other anticipated loads. *See* IIAR 2-2008, supra, §§ 10.4.1 and 10.4.4.

iii. At the time of the Inspection, several insulation deficiencies were identified, including: (1) The insulation jacket on the ice maker in the East Ice Builder was in poor condition, including substantial deterioration and weathering, which creates the potential for moisture ingress and damage to the pressure vessel; (2) The vapor barrier on piping was compromised in several areas, including insulation on piping on the roof that exhibited damage by compression. Some roof spaces lacked bridge crossovers thereby increasing the probability of damage to the vapor barriers by Facility employees walking on insulated piping; (3) Several sections of piping in the machinery room were missing insulation and exhibited surface

corrosion and/or damaged insulation; and, (4) Several sections of piping and vessel jacketing and insulation exhibited areas that had been previously subjected to non-destructive testing such as inspection ports in the insulation; however, the tested areas had not been sealed or capped. Failure to seal an inspection port can allow for water and moisture intrusion under the insulation. The standard industry practice is for insulation to be regularly maintained and inspected. *See* IIAR 2-2008, supra, Appendix H: Insulation for Refrigeration Systems. In addition, the standard industry practice is to check piping for signs of corrosion and to treat corroded piping with rust preventative paint and to replace badly corroded pipe. *See e.g.*, IIAR Bull. 109, supra, § 4.7.4.

36. At approximately 4:00 A.M. on October 3, 2015, the Facility experienced a release of anhydrous ammonia from the Facility's refrigeration system when a clamp truck ran into and sheared the liquid feed line into one of the Facility's evaporators.

37. According to Respondent, it immediately evacuated the Facility and called 911. The release was substantially complete after ten minutes, and the Facility's system was isolated at approximately 7:00 A.M..

38. The October 3, 2015 release resulted in the discharge of approximately 1,290 pounds of anhydrous ammonia, which is approximately thirteen times the reportable quantity of 100 pounds established by 40 C.F.R. § 302.4.

39. Respondent notified the National Response Center about the October 3, 2015 release at approximately 10:20 A.M. on October 3, 2015, which is approximately six hours after the release occurred.

40. On February 23, 2016, EPA sent Respondent a Notice of Potential Violation regarding the violations alleged herein, and on April 5, 2016, Respondent met with EPA to explain how Respondent had worked to bring the Facility into compliance.

IV. VIOLATIONS

Count 1: Failure to register as an RMP facility in accordance with 40 C.F.R. §§ 68.10, 68.12, 68.150(a), and 68.150(b)(3).

41. Complainant realleges and incorporates by reference Paragraphs 1 through 40.

42. Pursuant to 40 C.F.R. § 68.10, the owner or operator of a facility that has more than a threshold quantity of a regulated substance in a process shall comply with the requirements of 40 C.F.R. Part 68 no later than the latest of: (a) June 21, 1999; (b) Three years after the date on which a regulated substance is first listed under 40 C.F.R. § 68.130; or (c) The date on which a regulated substance is first present about a threshold quantity in a process.

43. Pursuant to 40 C.F.R. § 68.12, the owner or operator of a facility that is subject to 40 C.F.R. Part 68 shall submit a single RMP, as provided by 40 C.F.R. §§ 68.150 to 68.185, including a registration that reflects all covered processes at the facility.

44. As described in Paragraph 35(a), Respondent failed to comply with the RMP facility registration requirements of 40 C.F.R. §§ 68.10 and 68.12 by failing to submit its RMP to EPA by the date on which anhydrous ammonia was first present above the threshold quantity of 10,000 pounds in the Process at the Facility, which was in at least 2011. Respondent's EPCRA Tier II reporting indicate that the Facility used over 10,000 pounds of ammonia at least by 2011; however, Respondent did not submit an RMP for the Facility until May 30, 2013.

45. Accordingly, Respondent failed to comply with RMP registration requirements in violation of 40 C.F.R. §§ 68.10, 68.12, 68.150(a), and 68.150(b)(3) and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), from at least 2011, when the Facility's Process included over 10,000 pounds of ammonia, until May 30, 2013, the date Respondent submitted an RMP for the Facility.

Count 2: Failure to Comply with Program 3 Training Requirements

46. Complainant realleges and incorporates by reference paragraphs 1 through 45.

47. Pursuant to 40 C.F.R. § 68.71, the owner or operator of an RMP facility must ascertain that each employee involved in operating a covered process is trained in an overview of the process and operating procedures, including an emphasis on safety and health hazards, emergency operations and shutdown, and safe work practices. Refresher training is required every three years, and more often if necessary.

48. Pursuant to 40 C.F.R. § 68.71(c), the owner or operator of an RMP facility must document that the facility's employees have been appropriately trained by preparing a record which contains the identity of the employee, the date of the training, and the means used to verify that the employee understood the training.

49. As described in Paragraph 35(b) above, although Respondent's process at the Facility used over 10,000 pounds of anhydrous ammonia by at least 2011, Respondent had insufficient documentation and no formal written program outlining any Facility-specific operating training before 2014.

50. By failing to adequately train and record compliance with training requirements, Respondent violated 40 C.F.R. § 68.71 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), from at least 2011 until January 1, 2014.

Count 3: Failure to Comply with Process Safety Information Requirements

51. Complainant realleges and incorporates by reference paragraphs 1 through 50 of this document.

52. Pursuant to 40 C.F.R. § 68.65, the owner or operator of a Program 3 process is required, among other things, to compile written process safety information before completing the PHA, in order to perform an adequate PHA and to enable proper maintenance of process equipment. This includes documenting information pertaining to the hazards of the RMP chemical in the process and information pertaining to the technology and equipment of the process. This compilation of process safety information enables appropriate identification and understanding of hazards posed by regulated substances in the process and the technology and equipment of the process. In addition, the owner or operator must document that equipment complies with RAGAGEP, and that any equipment that was designed according to outdated standards is designed, maintained, and inspected, tested, and operated in a safe manner. 40 C.F.R. § 68.65(d)(2) and (3).

53. As described in Paragraph 35(c) above, Respondent failed to document that the Process equipment complied with applicable RAGAGEP or that any equipment that was

designed according to outdated standards is designed, maintained, inspected, tested, and operated in a safe manner.

54. By failing to comply with process safety information requirements, Respondent violated 40 C.F.R. § 68.65 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 4: Failure to Comply with Mechanical Integrity Requirements for the Covered Process

55. Complainant realleges and incorporates by reference paragraphs 1 through 54 of this document.

56. Pursuant to 40 C.F.R. § 68.73, the owner or operator of a Program 3 process must establish and implement written procedures to maintain the ongoing integrity of certain process equipment and train employees accordingly. The owner or operator must inspect and test the equipment either in accordance with the manufacturer's recommendations and good engineering practices, or more frequently if needed based on prior operating experience. The owner or operator must also document the inspections or tests on process equipment, correct deficiencies, ensure that any new equipment is installed properly, and ensure that maintenance materials and spare parts are suitable for the process application.

57. As described in Paragraph 35(d), at the time of the Inspection, Respondent failed to comply with the mechanical integrity requirements for the Process, including failing to establish a program to perform appropriate checks and inspections of the entire covered Process to ensure that equipment was installed properly and consistently with design specifications, the

manufacturer's instructions, and RAGAGEP, and failing to correct deficiencies in equipment that are outside acceptable limits.

58. By failing to establish and implement a sufficient mechanical integrity program and by not correcting equipment deficiencies before further use or in a safe and timely manner, Respondent violated 40 C.F.R. § 68.73 and Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E).

Count 5: Failure to Notify the National Response Center of a Release in a Timely Manner

59. Complainant realleges and incorporates by reference paragraphs 1 through 58 of this document.

60. Pursuant to Section 103 of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6(a), the person in charge of a facility or vessel from which a CERCLA hazardous substance has been released in an amount that meets or exceeds its reportable quantity must immediately notify the National Response Center as soon as that person has knowledge of the release.

61. As described in Paragraphs 36-39 above, at approximately 4:00 A.M. on October 3, 2015, the Facility experienced a release from the Facility's refrigeration system of approximately 1,290 pounds of anhydrous ammonia, which is approximately thirteen times the reportable quantity of 100 pounds established by 40 C.F.R. § 302.4. Although Respondent responded to the release and evacuated the Facility immediately, Respondent only notified the National Response Center at approximately 10:20 A.M. on October 3, 2015, which is approximately six hours after the release occurred.

62. By failing to notify the National Response Center regarding the October 3, 2015 release in a timely manner as soon as Respondent had knowledge of the release, Respondent violated the requirements of Section 103 CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6(a).

V. TERMS OF SETTLEMENT

A. General Settlement Provisions

63. The provisions of this CAFO shall apply to and be binding on the Parties, their officers, directors, agents, servants, employees, successors, and assigns.

64. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO and that the CAFO states a claim upon which relief can be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue and, without admitting or denying the factual and legal allegations contained herein, consents to the terms of this CAFO.

65. Respondent hereby waives its rights to a judicial or administrative hearing on any issue of law or fact set forth in this CAFO and waives its rights to appeal the Final Order.

66. Respondent consents to the issuance of this CAFO hereinafter recited and consents for purposes of settlement and avoidance of further litigation expense to the performance of the compliance actions described below.

B. Compliance

67. Respondent certifies that it is currently operating the Facility in compliance with 40 C.F.R. 68. Respondent also certifies that it has achieved the following key safety measures,

which EPA has determined should be present at every facility with an ammonia refrigeration system, as specified below:

Identifying Hazards

- Hazard Addressed: Releases or safety deficiencies that stem from a failure to identify hazards in design/operation of system
    - Facility has completed a process hazard analysis or review.

Operating Activities:

- Hazard Addressed: High risk of release from operating or maintenance activity
    - System has self-closing/quick closing valves on oil pots.
    - Facility has written procedures for maintenance and operation activities.
    - Only authorized persons have access to machinery room and the ability to alter safety settings on equipment.

Maintenance/Mechanical Integrity:

- Hazard Addressed: Leaks/releases from maintenance neglect
    - A preventative maintenance program is in place to, among other things, detect and control corrosion, deteriorated vapor barriers, ice buildup, and pipe hammering, and to inspect integrity of equipment/pipe supports.
    - All piping system openings except the relief header are plugged or capped, or valve is locked.
    - Equipment, piping, and emergency shutdown valves are labeled for easy identification, and pressure vessels have legible, accessible nameplates.
    - All atmospheric pressure relief valves have been replaced in the last five years with visible confirmation of accessible pressure relief valves.

Machinery Room and System Design

- Hazard Addressed: Inability to isolate and properly vent releases
    - The System(s) has/have emergency shut-off and ventilation switches outside each machinery room.
    - The machinery room(s) has/have functional, tested, ventilation. Air inlets are positioned to avoid recirculation of exhaust air and ensure sufficient inlet air to replace exhausted air.
    - Documentation exists to show that pressure relief valves that have a common discharge header have adequately sized piping to prevent excessive backpressure on relief valves, or if built prior to 2000, have adequate diameter based on the sum of the relief valve cross sectional areas.

Emergency Actions

- Hazard Addressed: Inability to regain control and reduce release impact
  - Critical shutoff valves are accessible, and a schematic is in place to show responders where to access them.
  - EPCRA Tier II reporting is up to date.

C. Penalty Payment

68. Sections 113(a) and (d) of the CAA, 42 U.S.C. §§ 7413(a) and (d), as amended by EPA's 2008 Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, promulgated in accordance with the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701, and the Federal Civil Penalties Inflation Act Improvements Act of 2015 ("FCPIAIA"), Section 701 of Public Law 114-74, 129 Stat. 599 (Nov. 2, 2015), provide for the assessment of civil penalties for violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), in amounts up to $37,500 per day per violation for violations occurring from January 13, 2009 to November 2, 2015, and up to $46,192 per day per violation for violations occurring after November 2, 2015. For violations occurring after November 2, 2015, the statutory maximum penalty per day of violation will increase annually depending on when the penalty is assessed (rather than when the violation occurred). The current statutory maximum penalty for CAA violations assessed pursuant to Section 113(d) of the CAA is $46,192 per day per violation.

69. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), as adjusted for inflation by the DCIA, FCPIAIA, and 40 C.F.R. Part 19, prescribes a $295,000 penalty limit for violations from January 12, 2009 through December 6, 2013, and a penalty limit of $320,000 for violations from December 7, 2013 to November 2, 2015, a penalty limit of $362,141 for violations from November 3, 2015 to January 14, 2018, and a penalty limit of $369,532 for violations thereafter,

and a twelve-month duration limitation on EPA's authority to initiate an Administrative Penalty Order. However, these limitations may be waived where the Administrator and the Attorney General jointly determine that a matter involving a larger penalty or a longer period of violation is appropriate for an administrative penalty action. EPA and the United States Department of Justice have determined that an administrative penalty action is appropriate in this case.

70. In determining the amount of the CAA penalty to be assessed, EPA took into account the statutory factors listed in Section 113(e) of the CAA, 42 U.S.C. § 7413(e). These factors include the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and such other factors as justice may require.

71. An appropriate penalty was derived pursuant to the "Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68" ("Enforcement Policy") dated June 2012. This policy provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors identified above to a particular case. When calculating penalties under the Enforcement Policy, EPA takes into account the potential for harm for violating a particular Part 68 requirement and the extent of deviation of Respondent's conduct from the particular Part 68 requirement. The appropriate penalty for violations of the reporting requirements of Section 103 of CERCLA was derived pursuant to "Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and

Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act" dated September 30, 1999.

72. Pursuant to Sections 113(d)(2)(B) and (e) of the CAA, 42 U.S.C. § 7413(d)(2)(B) and (e), and taking into account the relevant statutory penalty criteria, the facts alleged in this CAFO, and such other circumstances as justice may require, EPA has determined that it is fair and proper to assess a civil penalty of one hundred fifty-seven thousand two hundred fourteen ($157,214) for the violations alleged in this matter.

73. Within thirty (30) calendar days of the effective date of this CAFO, Respondent shall pay the total penalty of $157,214 according to the following instructions:

a. Respondent shall pay the CERCLA penalty by submitting a company, bank, or cashier's or certified check, payable to the order of the "EPA Hazardous Substance Superfund," in the amount of $22,066 to:

U.S. Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 61397-9000.

b. Respondent shall pay the CAA penalty by submitting a company, bank, cashier's or certified check in the amount of $135,148 and shall include the case name and docket number (CAA-01-2018-0003) on the face of the check. A check should be payable to "Treasurer, United States of America." The payment shall be remitted as follows:

If remitted by regular U.S. mail:
U.S. Environmental Protection Agency

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

If remitted by any overnight commercial carrier:
U.S. Bank
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

c. Respondent may make payment by electronic funds transfer instead of check, provided the penalty is split up as specified above in subparagraphs (a) and (b) via:

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

d. Respondent shall include the case name and docket numbers ("*In the Matter of Guida-Seibert Dairy* Company, Docket Nos. CAA-01-2018-0003 and CERCLA-01-2018-004") on the face of each check or wire transfer confirmation. In addition, within 24 hours of payment, Respondent shall forward notice of payment of the civil penalty as

well as copies of the payment check or payment receipt by first class mail or other delivery service to:

Wanda I. Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100Mail Code ORC 04-6
Boston, MA 02109-3912,

with a copy by electronic mail to: Maximilian Boal, EPA Enforcement Counsel, at boal.maximilian@epa.gov.

74. Collection of Unpaid Civil Penalty:

a. CAA Penalty: Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), if Respondent fails to pay the CAA civil penalty referenced in Paragraph 73 in full, it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the civil penalty if it is not paid within thirty (30) calendar days of the effective date of this CAFO. In that event, interest will accrue from the effective date of this CAFO at the "underpayment rate" established pursuant to 26 U.S.C § 6621(a)(2). In the event that a penalty is not paid when due, an additional charge will be assessed to cover the United States' enforcement expenses, including attorneys' fees and collection costs. In addition, a quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent's outstanding civil penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter.

b. CERCLA Penalty: 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. In the event that any portion of the civil penalty amount relating to the alleged CERCLA violation is not paid when due, the penalty shall be payable, plus accrued interest, without demand. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d).

c. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review. There are other actions EPA may take if Respondent fails to timely pay: refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14, and 13.33; collect the debt by administrative offset (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; suspend or revoke Respondent's licenses or other privileges; or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

75. All penalties, interest, and other charges shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and are not deductible for purposes of federal, state or

local law. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

D. Effect of Consent Agreement and Attached Final Order

76. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement and Final Order resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

77. By signing this Agreement, all parties agree that each party's obligations under this Consent Agreement and attached Final Order constitute sufficient consideration for the other parties' obligations.

78. Penalties paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

79. This Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

80. The terms, conditions, and compliance requirements of this Agreement may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

81. Any violation of this Order may result in a civil judicial action for an injunction or civil penalties or both, as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA

may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

82. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the CAA and CERCLA and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

83. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

84. EPA reserves the right to revoke this Agreement and settlement penalty if and to the extent that the EPA finds, after signing this Agreement, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, and EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

85. This CAFO in no way relieves Respondent or its employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

86. Each party shall bear its own costs and fees in this proceeding including attorney's fees, and specifically waive any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

87. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, EPA will transmit a copy of the filed Consent Agreement to Respondent. In accordance with 40 C.F.R. § 22.31(b), the effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk.

88. Each undersigned representative of the parties certifies that he or she is fully authorized by the party responsible to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

For Respondent:

_____ _____

Michael P. Young, President
Guida-Seibert Dairy Company

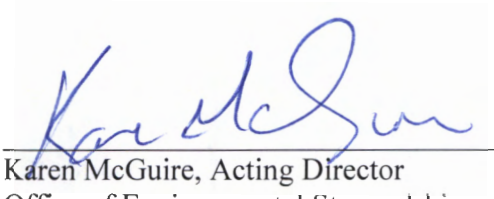
Date

For Respondent:

Michael P. Young, President
Guida-Seibert Dairy Company

1/11/18
Date

For EPA:



1-24-18

Karen McGuire, Acting Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region 1—New England

Date

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF Guida-Seibert Dairy Company 433 Park Street New Britain, CT 06501 Respondent.	Docket No. CAA-01-2018-0003 and CERCLA-01-2018-0004

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(c) of EPA's Consolidated Rules of Practice and Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondent are ORDERED to comply with the terms of the above Consent Agreement, effective on the date is filed with the Regional Hearing Clerk.

Date: January 29, 2018

LeAnn Jensen
Acting Regional Judicial Officer
U.S. Environmental Protection Agency, Region I

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

IN THE MATTER OF Guida-Seibert Dairy Company 433 Park Street New Britain, CT 06501 Respondent.	Docket No. CAA-01-2018-0003 and CERCLA-01-2018-0004 **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date noted below:

Original and One Copy
(Hand-Delivered):

Wanda Santiago, Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100 (ORC 04-6)
Boston, Massachusetts 02109-3912

Copy (certified mail)

Michael P. Young, President
Guida-Seibert Dairy Company
433 Park Street
New Britain, CT 06051

Amy L. Wachs, Esq.
Husch Blackwell LLP
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105

Dated: 1-29-2018

Maximilian Boal, Enforcement Counsel
U.S. EPA, Region I
5 Post Office Square, Suite 100 (OES04-2)
Boston, Massachusetts 02109-3912