



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

31 MAR 2016

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7015 1520 0003 3990 1945

Mr. Gerard A. Sikkema
Synergistic Environmental Systems, Inc.
10236 South U.S. Highway 181
San Antonio, TX 78223

Re: Synergistic Environmental Systems, Inc.: RCRA 3008 Consent Agreement and Final Order
USEPA Docket No. RCRA-06-2016-0902

Dear Mr. Sikkema:

Enclosed is the fully executed RCRA Consent Agreement and Final Order ("CAFO"), agreed upon by the parties to the above referenced matter. Among the sections of the CAFO are the Compliance Order seen in Section IV and the assessment of Civil Penalty seen in Section V, with the applicable times for performance. The CAFO becomes final upon filing with the Regional Hearing Clerk.

If you have questions please do not hesitate to contact me at (214) 665-2796 or by email at Hodges.Angela@epa.gov.

Sincerely,

A handwritten signature in cursive script that reads "Angela D. Hodges".

Ms. Angela Hodges
Assistant Regional Counsel

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED

NOV 31 2016

10:00 AM
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IN THE MATTER OF:

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SYNERGISTIC ENVIRONMENTAL
SYSTEMS INC.

San Antonio, Texas

RESPONDENT

Consent Agreement and Final Order
Docket No. RCRA-06-2016-0902

CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order ("CAFO") is entered into by the United States Environmental Protection Agency, Region 6 ("EPA") and Respondent, Synergistic Environmental Systems Inc. ("SES"), and concerns the facility located at 10236 Highway 181 South, San Antonio, Texas 78223 (the "Facility").

2. Notice of this action has been given to the State of Texas, under Section 3008(a)(2) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(2).

3. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.

4. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO, and waives all defenses that have been raised or could have been raised to the claims set forth in the CAFO.

5. The CAFO resolves only those violations that are alleged herein.

6. The Respondent consents to the issuance of the CAFO hereinafter recited, consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO, and consents to the specific stated compliance order.

II. JURISDICTION

7. This CAFO is issued by the EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984 (“HSWA”) and is simultaneously commenced and concluded through the issuance of this CAFO under 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

8. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by the EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this CAFO, and agrees not to contest the validity of this CAFO or its terms or conditions.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. Respondent is a corporation established under the laws of the State of Texas, and owns and operates the Facility located at 10236 Highway 181 South, San Antonio, Texas 78223.

10. Respondent is a “person” within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15); and 30 Tex. Admin. Code § 3.2(25)¹, [40 C.F.R. § 260.10].

11. Respondent’s Registered Agent for service in the State of Texas is Gerard Sikkema, 10236 Highway 181 South, San Antonio, Texas 78223.

12. Respondent owns and operates a Facility and conducts the primary business of providing environmental planning, management, operational, and support services.

¹ All citations to the EPA authorized Texas hazardous waste program refer to Title 30 of the Texas Administrative Code (T.A.C.) as amended, effective through December 31, 2009. 77 Fed. Reg. 71344, 71352 (November 30, 2012); 40 C.F.R. Part 272, Appendix A, Texas. The corresponding Code of Federal Regulation (C.F.R.) citations are also provided.

13. During the period of November 14, 2014 through December 2015, EPA conducted a RCRA investigation and record review (“Investigation”) of SES’s performance as a generator of hazardous waste, which included a RCRA 3007 Information Request issued to SES.

14. During the Investigation, EPA discovered that SES, at a minimum, generated the following waste:

- i. Characteristic hazardous waste identified as D001 (ignitable);
- ii. Characteristic hazardous waste identified as D002 (corrosive);
- iii. Characteristic hazardous waste identified as D008 (toxic - lead);
- iv. Characteristic hazardous waste identified as D018 (toxic- benzene);
- v. Characteristic hazardous waste identified as D035 (toxic - methyl ethyl ketone);
- vi. Listed hazardous waste identified as F003 (spent non-halogenated solvent - xylene); and
- vii. Listed hazardous waste identified as F005 (spent non-halogenated solvent - toluene).

15. The waste streams identified in Paragraph 14 are hazardous wastes as defined in 30 Tex. Admin. Code § 335.1(69), [40 C.F.R. §§ 261.21, 261.22, 261.24 and 261.31].

16. From the investigation, EPA determined that during the calendar years 2011 and 2015, SES generated and offered for transport and treatment the hazardous waste streams identified in Paragraph 14 in quantities that exceed the threshold amount of 1,000 kilograms (kg) of hazardous waste per month, which qualifies SES for the large quantity generator status as established under 30 Tex. Admin. Code, Chapter 335, Subchapter C, [40 C.F.R. § 262].

17. The Facility is a “solid waste management facility” within the meaning of Section 1004(29) of RCRA, 42 U.S.C. § 6903(29); a “facility” within the meaning of 30 Tex. Admin.

Code § 335.1(59), [40 C.F.R. §260.10]; and a “hazardous waste management unit” within the meaning of 30 Tex. Admin. Code § 335.1(72), [40 C.F.R. § 260.10].

18. SES is a “generator” of “hazardous wastes” at the Facility, as those terms are defined in Sections 1004(5) & (6) of RCRA, 42 U.S.C. §§ 6903(5) & (6), and 30 Tex. Admin. Code §§ 335.1(65) & (69), [40 C.F.R. § 260.10].

19. As a generator of hazardous waste, SES is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth at 30 Tex. Admin. Code, Chapter 335, Subchapters C and F, [40 C.F.R. §§ 262 and/or 270].

Claim 1: Notification Requirements

20. The allegations in Paragraphs 1-19 are realleged and incorporated herein by reference.

21. Within the meaning of 30 Tex. Admin. Code § 335.1 and 40 C.F.R. § 260.10, SES is a “generator” of hazardous waste.

22. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), any person generating a characteristic or listed hazardous waste shall file with the Administrator or authorized State a notification stating that the location and general description of such activity and the identified or listed hazardous wastes handled by such person.

23. SES did not file the adequate RCRA 3010 Notification of hazardous waste activities with the Administrator or with the State of Texas for calendar 2011 or 2015 in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

Claim 2: Failure to Operate within Its Stated Generator Status

24. The allegations in Paragraphs 1-23 are realleged and incorporated herein by reference.

25. During the Investigation, EPA determined that SES declared its generator status as Small Quantity Generator (“SQG”).

26. Pursuant to 30 Tex. Admin. Code § 335.69(f) and 40 C.F.R. § 262.34(f), as long as the SQG complies with the requirements set forth therein, the SQG can operate without a permit or interim status.

27. During calendar years 2011 and 2015, SES on several occasions exceeded its declared SQG status by generating more than 1,000 kilograms of hazardous waste in one month and operated as a large quantity generator in violation of the regulations set forth at 30 Tex. Admin. Code, Chapter 335, Subchapters C and/or F [40 C.F.R. Parts 262 and/or 270].

Claim 3: Failure to File Biennial Reports

28. The allegations in Paragraphs 1-27 are realleged and incorporated herein by reference.

29. Pursuant to 30 Tex. Admin. Code § 335.71 [40 C.F.R. § 262.41], a generator who ships any hazardous waste off-site for treatment, storage and/or disposal, must prepare and submit a Biennial Report to EPA's Regional Administrator, and to the TCEQ, by March 1 of each even-numbered year in addition to the annual reporting, which is required under 30 Tex. Admin. Code § 335.9.

30. At all times relevant to this CAFO, neither EPA nor TCEQ received the Biennial Report that SES was required to file in violation of 30 Tex. Admin. Code § 335.71, [40 C.F.R. § 262.41].

IV. COMPLIANCE ORDER

31. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within ninety (90) calendar days of the effective date of this CAFO, Respondent shall provide in writing the following:

- A. Respondent shall certify that it has reviewed all environmental requirements (Federal and State) that are applicable to SES as generator of hazardous waste and

has developed and implemented a RCRA Compliance Plan designed to ensure that Respondent is meeting the regulations applicable to a generator; including but not limited to: (a) making hazardous waste determinations; (b) creating and keeping the requisite records; (c) managing its hazardous wastes; and (d) reporting and offering for transportation and treatment its hazardous waste;

- B. Respondent shall certify that it has accurately complied with its RCRA Section 3010 Notification; and
- C. Respondent shall provide, with its certification, a copy of Respondent's RCRA Compliance Plan as described in subparagraph A above.

32. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of SES and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Copies of all documents required by the CAFO shall be sent to the following:

U.S. Environmental Protection Agency
Compliance Assurance and Enforcement Division
Hazardous Waste Enforcement Branch
Compliance Enforcement Section (6EN-HC)
1445 Ross Avenue
Dallas, TX 75202-2733
Attn: Paul James

V. TERMS OF SETTLEMENT

A. Penalty Provisions

33. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, Respondent's good faith efforts to comply with the applicable regulations, and EPA's assessment of Respondent's ability to pay, it is ordered that Respondent be assessed a civil penalty of **four thousand one hundred three dollars (\$4,103)**.

34. The penalty shall be paid within thirty (30) calendar days of the effective date of this CAFO and made payable to Treasurer, United States of America.

35. The following are Respondent's options for transmitting the penalties:

Checks sent via U.S. Postal Mail (including certified mail) or U.S. Postal Service Express Mail should be remitted to:

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

Checks sent via Overnight Mail (non-U.S. Postal Service) should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

Wire Transfers should be remitted to:

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

The case name and docket number (In the Matter of Synergistic Environmental Systems Inc., Docket No. RCRA-06-2016-0902) shall be documented on or within your chosen method of payment to ensure proper credit.

36. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

Mark Potts, Associate Director
Hazardous Waste Enforcement Branch (6EN-H)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733
Attn: Paul James

Your adherence to this request will ensure proper credit is given when penalties are received by EPA.

37. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 1311, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and 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). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt that remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 40 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

B. Costs

38. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

C. Termination and Satisfaction

39. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall also certify this in writing and in accordance with the certification language set forth in Section IV (Compliance Order), Paragraph 32. Unless the EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

D. Effective Date of Settlement

40. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT
AGREEMENT AND FINAL ORDER:**

FOR THE RESPONDENT:

Date: 3-21-2016



Jerry Sikkema
Owner
Synergistic Environmental Systems Inc.

FOR THE COMPLAINANT:

Date: 3-30-16



John Blevins
Director
Compliance Assurance and
Enforcement Division

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 3/31/16



Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of March, 2016, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method below:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED 7015152000339901945

Mr. Jerry Sikkema
Synergistic Environmental Systems Inc.
10236 US Highway 181 South
San Antonio, TX 78223

for Sandra Hardy

Ms. Lori Jackson
Paralegal