



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

September 1, 2021

VIA EMAIL

Mr. Geoffrey H. Yost
O'Melveny & Myers LLP
Two Embarcadero Center, 28th Floor
San Francisco, California 94111
gyost@omm.com

Re: Consent Agreement and Final Order
Cygnus Corporation
U.S. EPA ID No.: ILR000144105
Docket No: **RCRA-05-2021-0040**

Dear Mr. Yost:

Attached please find a copy of the signed, fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed with the Regional Hearing Clerk on September 1, 2021.

Cygnus Corporation must pay the civil penalty in the amount of \$11,472 in the manner prescribed in paragraph 42 of the CAFO, and in the comment or description field of the electronic funds transfer state the case title and the docket number RCRA-05-2021-0040. Cygnus' payment is due within thirty (30) calendar days of the effective date of the CAFO.

Thank you for your cooperation in resolving this matter.

If you have any questions or concerns regarding this matter, please contact Spiros Bourgikos, of my staff, at 312-886-6862 or bourgikos.spiros@epa.gov.

Sincerely,

Cunningham, Michael
Digitally signed by
Cunningham, Michael
Date: 2021.08.24
08:45:11 -05'00'

Michael Cunningham, Chief
RCRA Compliance Section 1

Attachment

cc: James Jennings, Illinois EPA (james.m.jennings@illinois.gov)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. RCRA-05-2021-0040
)	
Cygnus Corporation)	Proceeding to Commence and Conclude
Chicago, Illinois)	an Action to Assess a Civil Penalty
)	Under Section 3008(a) of the Resource
U.S. EPA ID No.: ILR 000 144 105)	Conservation and Recovery Act,
)	42 U.S.C. § 6928(a)
Respondent.)	
)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. U.S. EPA provided notice of this action to the State of Illinois pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Respondent is Cygnus Corporation, a corporation doing business in the State of Illinois.

5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the

issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

11. U.S. EPA promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste, pursuant to Sections 3002-3005 of RCRA, 42 U.S.C. §§ 6922-6925.

12. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions.

13. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001–3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg. 3,778 (Jan. 31, 1986).

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period, or both. The Administrator of U.S. EPA may assess a civil penalty or up to \$102,638 per day for each violation of Subtitle C of RCRA that occurred after November 2, 2015 pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

16. Respondent was and is a "person" as defined by ILL. ADMIN. CODE tit. 35, § 720.110, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent is an "owner" or "operator," as those terms are defined under ILL. ADMIN. CODE tit. 35, § 720.110 and 40 C.F.R. § 260.10, of a facility located at 340 East 138th Street, Chicago, Illinois.

18. At all times relevant to this Complaint, Respondent's Facility consisted of land and structures, other appurtenances, and improvements on the land used for manufacturing amenities, including household cleaning products, and where Respondent stored hazardous waste.

19. Respondent's Facility is a "facility," as that term is defined under ILL. ADMIN. CODE tit. 35, § 720.110 and 40 C.F.R. § 260.10.

20. Respondent's actions and processes at the facility cause the production of "hazardous waste," as that term is defined under ILL. ADMIN. CODE tit. 35, §§ 720.110, 721.103

and 40 C.F.R. § 260.10.

21. Respondent is a “generator” of hazardous waste, as that term is defined under ILL. ADMIN. CODE tit. 35, § 720.110 and 40 C.F.R. § 260.10.

22. For at least 2017, Respondent generated 1,000 kilograms or greater of hazardous waste in some calendar months (qualifying it as a “Large Quantity Generator”), which it shipped off-site to a treatment, storage or disposal facility within the United States.

23. On July 14, 2021, U.S. EPA sent to Respondent a Notice of Potential RCRA Violations and Opportunity for Settlement.

24. The Notice letter identified potential RCRA violations, and an option and timeline for resolution of the matter through a streamlined settlement process.

25. The goal of the streamlined settlement process is to quickly and efficiently assess and resolve the matter, bring the facility into compliance, and enter into an agreed upon CAFO.

26. Thereafter, Respondent engaged with U.S. EPA to expeditiously assess the matter and agree to the entry of this CAFO.

Count 1: Notification of Change of Hazardous Waste Activity

27. Complainant incorporates paragraphs 1 through 26 of this CAFO as though set forth in this paragraph.

28. Pursuant to ILL. ADMIN. CODE tit. 35 § 722.110(b), a generator must determine the quantity of hazardous waste generated per month, so as to allow the generator to determine the applicability of the provisions of ILL. ADMIN. CODE tit. 35, Part 722 that are dependent on quantity generated per month.

29. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), generators are required to file with an authorized State a notification (or if necessary a subsequent notification) including the types of wastes handled and the type of hazardous waste activity (*e.g.*, change to

Large Quantity Generator status).

30. Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), is implemented through EPA Form 8700-12 (OMB 2050-0024), which requires notification if, among other things, a generator's hazardous waste activity changes to Large Quantity Generator status.

31. From at least 2017 until present, Respondent did not submit a notification of the change of the facility's type of hazardous waste activity to Large Quantity Generator status in relevant months, in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

Count 2: Annual Reporting

32. Complainant incorporates paragraphs 1 through 26 of this CAFO as though set forth in this paragraph.

33. Pursuant to ILL. ADMIN. CODE tit. 35, § 722.141, a generator of more than 1,000 kilograms of hazardous waste must provide to the director or the director's designee the data necessary for the department to prepare and submit Illinois' hazardous waste report as required. An Annual Report is due by March 1 of each year.

34. In 2018, Respondent did not prepare and submit an annual report to the State of Illinois by March 1 for the preceding calendar year of 2017, in violation of ILL. ADMIN. CODE tit. 35, § 722.141.

Compliance Order

35. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Respondent is hereby ordered to comply with the following requirements as expeditiously as possible and no later than 30 days from the effective date of this CAFO.

36. Respondent shall file with the State of Illinois an updated Notification of RCRA Subtitle C Activities (e.g. Site Identification Form 8700-12), including the types wastes handled and the type of hazardous waste activity (e.g., change to Large Quantity Generator status). This

updated Notification may be filed along with the Annual Hazardous Waste Report.

37. Respondent shall file with the State of Illinois an Annual Hazardous Waste Report covering the year 2017.

38. Respondent shall submit the following certification to U.S. EPA that it has complied with the requirement in paragraphs 36 and 37, above:

I certify under the penalty of law that based on my review of all relevant information and documents and inquiring of those individuals immediately responsible for providing all relevant information and documents, Cygnus Corporation is in compliance with the requirements of this Compliance Order. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Date _____ Signature and Title _____

39. If unable to certify compliance in paragraph 38, Respondent shall submit notification explaining why it is unable to comply, the actions it is taking to comply, and a proposed date that it will comply.

40. Respondent shall submit all certifications and notifications required under the Compliance Order to:

Land Enforcement and Compliance Assurance Branch
Enforcement and Compliance Assurance Division|
U.S. EPA, Region 5
R5lecab@epa.gov

And Spiros Bourgikos
Enforcement and Compliance Assurance Division
U.S. EPA, Region 5
bourgikos.spiros@epa.gov

Civil Penalty

41. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$11,472. In determining the penalty amount, Complainant considered the above Factual Allegations, the seriousness of the

violations, any good faith efforts to comply with the applicable requirement, and other factors as justice may require. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

42. Within 30 days after the effective date of this CAFO, Respondent must pay a \$11,472 civil penalty for the RCRA violations by:

For checks sent by regular U.S. Postal Service mail, sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

The check must state Respondent's name and the docket number of this CAFO.

For checks sent by express mail, sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must state Respondent's name and the docket number of this CAFO.

For wire transfer, sending funds electronically, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 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"

In the comment or description field of the wire transfer, state Respondent's name and the docket number of this CAFO.

For ACH electronic funds transfer, sending funds electronically, payable to "Treasurer, United States of America," and sent to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

By paying online, following the instructions found here:

WWW.PAY.GOV

Use the Search Public Forms option and enter 'sfo 1.1' in the search field.
Open form and complete required fields.

43. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
Or via email at whitehead.ladawn@epa.gov

Land Enforcement and Compliance Assurance Branch
Enforcement and Compliance Assurance Division
U.S. EPA, Region 5
R5lecab@epa.gov

Spiros Bourgikos
Enforcement and Compliance Assurance Division
U.S. EPA, Region 5
bourgikos.spiros@epa.gov

Maria Dambriunas
Office of Regional Counsel
U.S. EPA, Region 5
dambriunas.maria@epa.gov

44. This civil penalty is not deductible for federal tax purposes.

45. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an

action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

46. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

47. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: dambriunas.maria@epa.gov (for Complainant), and gyost@omm.com (for Respondent).

48. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties under Section 3008(a) of RCRA, U.S.S. § 6928(a), for the violations alleged in this CAFO

49. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

50. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

51. Payment of the civil penalty does not affect Respondent's continuing obligation to comply with RCRA and other applicable federal, state, local laws or permits.

52. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response

Policy (December 2003).

53. The terms of this CAFO bind Respondent, its successors, and assigns.
54. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.
55. Each party agrees to bear its own costs and attorney's fees in this action.
56. This CAFO constitutes the entire agreement between the parties.

Cygnus Corporation, Respondent

8/19/2021

Date

Isabelle Pierre


Isabelle Pierre
EVP, General Counsel & Secretary
Cygnus Corporation

United States Environmental Protection Agency, Complainant

Date

**Harris,
Michael**

Michael D. Harris
Division Director
Enforcement and Compliance Assurance
Division

 Digitally signed by Harris,
Michael
Date: 2021.08.30
10:39:20 -05'00'

In the Matter of:
Cygnus Corporation
Docket No. **RCRA-05-2021-0040**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

ANN COYLE Digitally signed by ANN
COYLE
Date: 2021.09.01
10:34:40 -05'00'

Date

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the Matter of: Cygnus Corporation
Docket Number: **RCRA-05-2021-0040**

CERTIFICATE OF ELECTRONIC MAILING

I certify that I served a true correct a copy of the foregoing **Consent Agreement and Final Order**, docket number **RCRA-05-2021-0040** , which was filed on **September 1, 2021** , in the following manner to the following addressees:

Copy by E-mail to
Attorney for Respondent: Geoffrey H. Yost
gyost@omm.com

Copy by E-mail to
Attorney for Complainant: Maria Dambriunas
dambriunas.maria@epa.gov


Copy by E-mail to
EPA enforcement staff contact: Spiros Bourgikos
bourgikos.spiros@epa.gov

Copy by E-mail to
Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: _____

LADAWN
WHITEHEAD

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

 Digitally signed by LADAWN
WHITEHEAD
Date: 2021.09.01 13:03:50 -05'00'