



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

DEC 10 2014

CERTIFIED MAIL 7009 1680 0000 7677 8749
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

George Parke, IV
Chief Executive Officer
Spartek, Inc.
300 Milwaukee Street
Sparta, Wisconsin 54656

Re: Consent Agreement and Final Order
Spartek, Inc., Sparta, Wisconsin
Docket No: **RCRA-05-2015-0002**

Dear Mr. Parke:

Enclosed please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed on September 10, 2014, with the Regional Hearing Clerk (RHC).

Please pay the civil penalty in the amount of \$26,000 in the manner prescribed in paragraph 45 of the CAFO, and reference all checks with the docket number **RCRA-05-2015-0002**. Your payment of \$13,022 is due within 30 days of the effective date of the CAFO, and your payment of \$13,130 within 390 days of the effective date of this CAFO. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

Sincerely,

Gary J. Victorine, Chief
RCRA Branch

Enclosures

cc: Steven Sisbach, WDNR – Madison Central Office
(steven.sisbach@wisconsin.gov)
Michael Ellenbecker, WDNR-Sturtevant Service Center
(michael.ellenbecker@wisconsin.gov)

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
)
SPARTEK, INC.,)
SPARTA, WISCONSIN,)
)
U.S. EPA ID No.: WID055470272,)
)
RESPONDENT.)
_____)

Docket No.: RCRA-05-2015-0002
Proceeding to Commence and Conclude
an Action to Assess a Civil Penalty
Under Section 3008(a) of the Resource
Conservation and Recovery Act,
42 U.S.C. § 6928(a)



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, 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 Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. U.S. EPA provided notice of commencement of this action to the State of Wisconsin pursuant to section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
4. Respondent is Spartek, Inc., a corporation doing business in the State of Wisconsin.

5. According to 40 C.F.R. § 22.13(b), where the parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO).

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 terms of this CAFO, including the assessment of the civil penalty specified below.

JURISDICTION AND WAIVER OF RIGHT TO HEARING

8. Jurisdiction for this action is conferred upon U.S. EPA by sections 2002(a)(1), 3006(b), and 3008 of RCRA; 42 U.S.C. §§ 6912(a)(1), 6926(b), 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.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6939e, the regulations at 40 C.F.R. §§ 260.1 – 279.82 and the federally-authorized Wisconsin corollaries to the federal regulations.

STATUTORY AND REGULATORY BACKGROUND

12. U.S. EPA has 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 or used oil, pursuant to sections 3001 – 3007, 3013 and 3014, among others, of RCRA, 42 U.S.C. §§ 6921 – 6927, 6934 and 6935.

13. 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. 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 Wisconsin final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986, as noted publicly at 51 Fed. Reg. 3783 (January 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. The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of subtitle C of RCRA according to section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. part 19, U.S. EPA may assess a civil penalty of up to \$32,500 per day for each violation of subtitle C of RCRA that occurred after March 15, 2004 through January 12, 2009, and \$37,500 per day for each violation of subtitle C of RCRA that occurred after January 12, 2009.

FACTUAL ALLEGATIONS AND ALLEGED VIOLATIONS

16. Respondent was and is a “person” as defined by WAC NR § 600.03(170)¹, 40 C.F.R. § 260.10, and section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
17. Respondent is the “owner” or “operator,” as those terms are defined under WAC NR §§ 600.03(166) and (167) [40 C.F.R. § 260.10]², of a facility located at 300 Milwaukee Street, Sparta, Wisconsin (facility).
18. The facility consists of land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.
19. Respondent’s facility is a multi-material custom job shop which performs injection molding, vacuum metalized plating, assembly, metal fabrication, vacuum forming, painting, screening, and pad printing.
20. At all times relevant to this CAFO, Respondent created solid wastes including: waste spray booth filters contaminated with methyl ethyl ketone (D035), spent non-halogenated solvent waste (F005, D001), caustic tank solution (D002), chromium dip dye waste (D007), shop towels and rags.
21. Respondent’s processes at the facility produce several hazardous wastes identified or listed in WAC NR chapter 605 or cause a hazardous waste to become subject to regulation under WAC NR parts 600-685 [40 C.F.R. parts 260-270].
22. Respondent is a “generator,” as that term is defined in WAC NR § 600.03(117) [40 C.F.R. § 260.10].

¹ Citations to Wisconsin’s regulations here are to a version effective on March 5, 2008, (published in the Wisconsin Register in May 1998) a version since superseded. The regulations effective the date of the alleged violations control the violations alleged in this CAFO and are available from Complainant.

² For the purposes of this document and for convenient reference, federal corollaries to enforceable Wisconsin hazardous waste program requirements are provided in brackets.

23. Respondent produced more than 1,000 kilograms (2,205 pounds) of hazardous waste each calendar month relevant to this CAFO, and was a large quantity generator.

24. Respondent is subject to the regulations promulgated pursuant to subtitle C of RCRA, 42 U.S.C. §§ 6921 - 6939e, or the analogous Wisconsin regulations as part of the applicable state hazardous waste management program for the State of Wisconsin, or both.

25. At all times relevant to this CAFO, the State of Wisconsin had not issued a permit to Respondent to treat, store, or dispose of hazardous waste at the facility.

26. At all times relevant to this CAFO, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at the facility.

Count I: Failure to Maintain Records of Weekly and Daily Inspections

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

28. According to WAC NR § 615.05(4)(a)(3)(c) [40 C.F.R. § 262.34(a)(1)(ii)], a generator who accumulates hazardous waste on-site in containers or tanks without a storage license for 90 days or less must weekly inspect all tanks used for storing hazardous waste for leaking, corrosion, or deterioration of the tank and associated structures, according to WAC NR § 615.05(4)(a)(3)(a) [40 C.F.R. § 265.195(a), (b)] and prepare a record of these inspections. In addition, according to WAC NR § 615.05(4)(a)(3)(b) [40 C.F.R. § 265.195(a), (b)], the generator must inspect tanks used to store hazardous waste once each operating day to ensure proper operation of discharge control equipment. This regulation, at WAC NR § 615.05(4)(a)(3)(c) [40 C.F.R. § 265.195(g)], further requires a facility to maintain the records for three years from the date of the inspection.

29. At all times relevant to this CAFO, Respondent accumulated or stored hazardous waste in containers or tanks.

30. On March 5, 2008, Respondent did not produce records of weekly or daily inspections of all tanks used for storing hazardous waste for the previous three years.

31. Respondent's accumulation of hazardous waste for less than 90 days without maintaining records of its daily and weekly inspections of tanks used for storing hazardous waste for three years from the date of the inspection, is a violation of WAC NR § 615.05(4)(a)(3)(c) [40 C.F.R. § 265.195(g)] and subjects Respondent to the enforcement provisions of section 3008 of RCRA, 42 U.S.C. § 6928.

Count II: Failure to Equip Storage Tanks with Inflow Controls

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

33. According to WAC NR § 615.05(4)(a)(3) [40 C.F.R. § 262.34(a)(1)(ii)], a generator who accumulates hazardous waste on-site in containers or tanks without a storage license for 90 days or less must comply with the tank system requirements of WAC NR part 645 [40 C.F.R. part 265, subpart J].

34. According to WAC NR § 645.10(2)(b) [40 C.F.R. § 265.194(b)(2)], an owner or operator must use appropriate controls and practices to prevent spills and overflows from tank systems, which include overfill prevention controls such as automatic feed cutoff or bypass to another tank.

35. At all times relevant to this CAFO, Respondent accumulated or stored hazardous waste in containers or tanks.

36. On March 5, 2008, Respondent's tank had no overfill prevention controls.

37. Respondent's accumulation of hazardous waste in tanks for less than 90 days without overfill prevention controls is a violation of WAC NR §§ 645.10(2)(b) [40 C.F.R. § 265.194(b)(2)] and 615.05(4)(a)(3) [40 C.F.R. § 262.34(a)(1)(ii)] and subjects Respondent to the enforcement provisions of section 3008 of RCRA, 42 U.S.C. § 6928.

Count III: Failure to Prepare and Maintain Assessment of Tank System Integrity

38. Complainant incorporates paragraphs 1 through 26 of this Complaint as though set forth in this paragraph.

39. According to WAC NR § 615.05(4)(a)(3) [40 C.F.R. § 262.34(a)(1)(ii)], a generator who accumulates hazardous waste on-site in containers or tanks without a storage license for 90 days or less must comply with the tank system requirements of WAC NR part 645 [40 C.F.R. part 265, subpart J].

40. According to WAC NR § 645.07(1) [40 C.F.R. § 265.191(a)], an owner or operator must determine that the tank system is not leaking or is not unfit for use by obtaining and keeping on file at the facility a written assessment reviewed and certified by an independent, qualified and registered professional engineer.

41. At all times relevant to this CAFO, Respondent accumulated or stored hazardous waste in containers or tanks.

42. On March 5, 2008, Respondent could not produce a written assessment reviewed and certified by an independent, qualified and registered professional engineer that the tank system is not leaking or unfit for use.

43. Respondent's accumulation of hazardous waste in tanks for less than 90 days without a written assessment reviewed and certified by an independent, qualified and registered

professional engineer that the tank system is not leaking or unfit for use is a violation of WAC NR §§ 645.07(1) [40 C.F.R. § 265.191(a)] and 615.05(4)(a)(3) [40 C.F.R. § 262.34(a)(1)(ii)] and subjects Respondent to the enforcement provisions of section 3008 of RCRA, 42 U.S.C. § 6928.

CIVIL PENALTY

44. 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 \$26,000. In determining the penalty amount, Complainant took into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

45. Respondent must pay a \$26,000 civil penalty with interest in two installments as follows: \$13,022 within 30 days of the effective date of this CAFO, and \$13,130 within 390 days of the effective date of this CAFO. Respondent must pay the installments by sending cashier's checks, payable to "Treasurer, United States of America," to:

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

The checks must state the case title *In the Matter of Spartek, Inc.*, and the docket number of this CAFO.

46. A transmittal letter, stating, Respondent's name, the case title *In the Matter of Spartek, Inc.*, Respondent's complete address and the case docket number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Walt Francis (LR-8J)
Land and Chemicals Division, RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Robert S. Guenther (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

48. If Respondent does not pay an installment payment as set forth in paragraph 45, above, the entire unpaid balance of the civil penalty and any amount required by paragraph 49, below, will become due and owing upon written notice by U.S. EPA to Respondent of the delinquency. 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. Respondent agrees that the validity, amount, and appropriateness of the civil penalty are not reviewable in any collection action.

49. 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

50. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

51. 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.

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

53. 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).

54. The terms of this CAFO bind Respondent, its successors, and assigns.


55. 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.

56. Each party agrees to bear its own costs and attorney's fees in this action.

57. This CAFO constitutes the entire agreement between the parties.

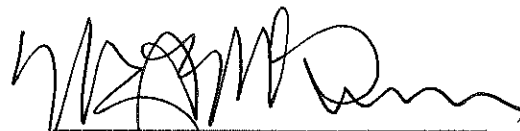
Spartek, Inc., Respondent

11/3/14
Date


By: Tim Speerschneider
Attorney for Respondent

United States Environmental Protection Agency, Complainant

12/1/2014
Date


Margaret M. Guerriero, Director
Land and Chemicals Division

In the Matter of:
Spartek, Inc.
Docket No. RCRA-05-2015-0002

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.

12-5-2014
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

CASE NAME: Spartek, Inc.
DOCKET NO: RCRA-05-2015-0002

CERTIFICATE OF SERVICE

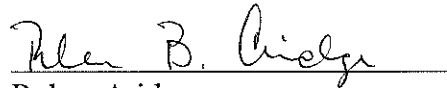
I hereby certify that today I filed the original of this **Complaint and Compliance Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed to the following:

George Parke, IV
Chief Executive Officer
Spartek, Inc.
300 Milwaukee Street South
Sparta, Wisconsin 54656

Certified Mail # 7009 1680 0000 7677 8749

Dated: Dec. 10th, 2014



Ruben Aridge
Administrative Program Assistant
United States Environmental Protection Agency
Region 5
Land and Chemicals Division LR-8J
RCRA Branch
77 W. Jackson Blvd, Chicago, IL 60604-3590