



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

APR 10 2013

REPLY TO THE ATTENTION OF:
LR-8J

CERTIFIED MAIL 7009 1680 0000 7663 5172
RETURN RECEIPT REQUESTED

Mr. Charles G. Terrizzi
Chief Executive Officer
Wismarq Corporation
1860 Executive Drive, Suite C
Oconomowoc, Wisconsin 53066

Re: Consent Agreement and Final Order
Wismarq Corporation
Docket No: RCRA-

Dear Mr. Terrizzi:

Enclosed please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed on April 10, 2013 with the Regional Hearing Clerk (RHC).

Please pay the civil penalty in the amount of \$4,000 in the manner prescribed in paragraph(s) 11 through 14 of the CAFO, and reference all checks with the number BD N/A and docket number RCRA-05-2012-0015. Your payment is due within 30 calendar days of the effective date of the CAFO. Also, enclosed is a *Notice of Securities and Exchange Commission Registrants Duty to Disclose Environmental Legal Proceedings*.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Gary J. Victorine".

Gary J. Victorine
Chief
RCRA Branch

Enclosure

cc: Todd Marvel, Illinois Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. RCRA-05-2012-0015
)	
Wismarq Corporation)	Proceeding to Assess a Civil Penalty
Franklin Park, Illinois,)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
Respondent.)	42 U.S.C. § 6928(a)
<hr/>		

Consent Agreement and Final Order

Preliminary Statement



APR 10 2013

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

1. Complainant, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5, brought this administrative action seeking a civil penalty 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).
2. On September 28, 2012, U.S. EPA filed its Complaint in this action against Respondent Wismarq Corporation (“Respondent”).
3. Complainant alleges that Respondent failed to comply with certain conditions of 35 IAC § 722.134(a) [40 C.F.R. § 262.34(a)] that must be satisfied before a generator of hazardous waste may qualify for an exemption from the general RCRA requirement to obtain a permit or interim status. Specifically, the Complaint alleges that Respondent stored hazardous waste in fifteen containers without the date of accumulation, failed to implement RCRA training for the facility personnel and did not conduct annual RCRA training, failed to inspect the waste storage area on a weekly basis, and failed to maintain records of these inspections. As a result of

Respondent's alleged failure to comply with these conditions, Respondent was required to obtain a permit in order to treat, store, or dispose of hazardous waste in accordance with 35 IAC § 703.121, 35 IAC § 702.120, and 35 IAC § 702.123. Complainant alleges that Respondent failed to obtain a permit or interim status; therefore, Respondent's treatment, storage, or disposal of hazardous waste violated Section 3005 of RCRA, 42 U.S.C. § 6925(a) and the permit requirements of 35 IAC § 703.121, 35 IAC § 702.120, and 35 IAC § 702.123 [40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13].

4. The Complaint also alleges that Respondent was in violation of the following requirements for owners and operators of hazardous waste storage facilities:

- a. 35 IAC § 722.140(b) [40 CFR § 262.40(b)] by failing to keep on-site a copy of the 2007, 2008, 2009 and 2010 Annual Reports for a period of at least three years from the due date of the report.
 - b. 35 IAC § 722.141(a) [40 CFR § 262.41(a)] by failing to submit a single copy of the 2007, 2008, 2009 and 2010 annual reports to the Illinois Environmental Protection Agency by March 1 for the preceding calendar year.
 - c. 35 IAC § 722.111 [40 CFR § 262.11] by failing to make a waste determination of the waste contained in a drum in the accumulation area.
 - d. 35 IAC § 722.140(c) [40 CFR § 262.40(c)] by failing to keep records of any test results or waste determination of the chromium waste in accordance with 35 IAC § 722.111 [40 CFR § 262.11].
5. On November 1, 2012, Respondent filed an answer to the Complaint.

Stipulations

6. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint.

7. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this CAFO.

8. Respondent certifies that it is complying fully with RCRA 42 U.S.C. § 6922 and 35 IAC § 722.134(a)(2); 35 IAC § 722.134(a)(4); 35 IAC § 722.116(a)(1)(i); 35 IAC § 725.274; 35 IAC § 722.140(b); 35 IAC § 722.141; 35 IAC § 722.111; and 35 IAC § 722.140(c) [40 C.F.R. § 262.34(a)(2); 40 C.F.R. § 262.34(a)(4); 40 C.F.R. § 262.34(a)(1)(i); 40 C.F.R. § 265.174; and 40 C.F.R. § 262.40(b); 40 C.F.R. § 262.41].

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

10. The parties agree that settling this action without further litigation, upon the terms of this CAFO, is in the public interest.

Civil Penalty

11. In consideration of Respondent's inability to pay a substantial civil penalty, Complainant agrees to mitigate the proposed penalty of \$128,737 to \$4,000.

12. Within 30 days after the effective date of this CAFO, Respondent must pay the \$4,000 civil penalty for the RCRA violations by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

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

13. The check must state the case name, the docket number of this CAFO and the billing document number.

14. A transmittal letter, stating the case name, Respondent's complete address, the case docket number and the billing document 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

Spiros Bourgikos (LR-8J)
RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

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

16. 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.

17. 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.

18. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties.

19. Respondent will use the method of payment specified in paragraphs 12 and 13, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

General Provisions

20. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint.

21. 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.

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

23. 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).

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

25. 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.

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

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

In the Matter of:
Wismarq Corporation
Docket No. RCRA-05-2012-0015

Wismarq Corporation, Respondent

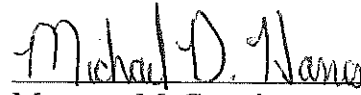
3/8/2013
Date



Charles M. Terrizi
Chief Executive Officer
Wismarq Corporation

United States Environmental Protection Agency, Complainant

4/03/13
Date

 ^{for M.G.}

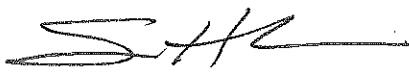
Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Wismarq Corporation.
Docket No. RCRA-05-2012-0015


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.

4-4-13
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5


APR 10 2013
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

CASE NAME: Wismarq Corporation

DOCKET NO: RCRA-05-2012-0015

CERTIFICATE OF SERVICE

I, Gaye Cuerington, hereby certify that today I filed the original of this Consent Agreement and Final Order and this Certificate of Service in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

I further certify that I then caused a true and correct copy of the filed document to be mailed on the date below, via Certified Mail, Return Receipt Requested to:

Mr. Charles G. Terrizzi
Chief Executive Officer
Wismarq Corporation
1860 Executive Drive, Suite C
Oconomowoc, Wisconsin 53066

Certified Mail Receipt # 7009 1680 0000 7663 5172

Dated : 4/10, 2013.

Gaye Cuerington

Gaye Cuerington
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

RECEIVED

APR 10 2013

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**