



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

JUN 27 2011

REPLY TO THE ATTENTION OF:

LR-8J

CERTIFIED MAIL 7009 1680 0000 7665 5163
RETURN RECEIPT REQUESTED

Mr. Michael Eisner
President
Reliable Galvanizing Company
8800 South Genoa Avenue
Chicago, Illinois 60620

Re: Consent Agreement and Final Order
Reliable Galvanizing Company
Docket No: RCRA-05-2010-0026

Dear Mr. Eisner:

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 JUN 27 2011, with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$20,178 in the manner prescribed in paragraphs 11 -16 of the CAFO and reference all checks with the number BD 2751142R009 and docket number RCRA-05-2010-0026. Your payment is due within thirty (30) calendar days of the effective date of the 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,

A handwritten signature in cursive script, appearing to read "Mary S. Setnicar".

Mary S. Setnicar
Acting Chief, RCRA Branch
Land and Chemicals Division

Enclosures

cc: Thomas J. McNamee, Environmental Compliance Consulting Ltd. (w/CAFO)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)

Reliable Galvanizing Company)
Chicago, Illinois,)

Respondent.)
_____)

Docket No. RCRA-05-2010-0026

Proceeding 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

RECEIVED
JUN 27 2011

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 30, 2010, U.S. EPA filed its Complaint in this action against Respondent Reliable Galvanizing Company (Respondent).

3. The Complaint alleges that Respondent failed to comply with certain conditions provided by 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 Complainant alleges that Respondent failed to provide adequate training, failed to provide initial or annual training and failed to maintain training records; failed to maintain a contingency plan at the facility; and, failed to make arrangements with local emergency authorities. 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. The Complaint 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 § 722.142(a)(2) [40 C.F.R. § 262.42(a)(2)] by failing to submit an exception report to EPA Regional Administrator within forty-five (45) days of the date that the waste was accepted by the initial transporter; and,
- b. 35 IAC § 728.107(a)(8) [40 C.F.R. § 268.7(a)(8)] by failing to maintain a copy of the land disposal restriction notification for the hazardous waste that is the subject of such documentation.

5. On December 16, 2010, pursuant to an extension granted by U.S. EPA's Regional Judicial Officer, Respondent filed an Answer to Complaint and Compliance Order and Request for Hearing.

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), 35 IAC §§ 724.116(a), (b) and (c), 35 IAC §§ 274.116(d)(2), (3) and (4), and 35 IAC §§ 724.152(c), (d) and (e) [40 C.F.R. § 262.34(a), 40 C.F.R. §§ 264.16(a), (b) and (c), 40

C.F.R. §§ 264.16(d)(2), (3) and (4), and 40 C.F.R. §§ 264.52(c), (d) and (e)].

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 agreement to perform a Supplemental Environmental Project (SEP) and other factors as justice may require, Complainant agrees to mitigate the proposed civil penalty amount to \$20,178.

12. Within thirty (30) days after the effective date of this CAFO, Respondent must pay a \$20,178 civil penalty for the alleged RCRA violations. Respondent must pay the penalty 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

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

Andre Daugavietis (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. 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 thirty (30) days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount ninety (90) days past due.

Supplemental Environmental Projects

17. Respondent has agreed to, and must, complete the supplemental environmental project (SEP), as described herein.

18. Respondent shall undertake a SEP designed to protect the environment and public health by sending its spent sulfuric acid (ferrous sulfate solution) to be beneficially reused. Under this SEP, the spent sulfuric acid from Respondent's facility will no longer be disposed of as a hazardous waste into a deep well injection facility, as was done for the past thirty-five years. Beneficially reusing the spent sulfuric acid, instead of disposing of it as a hazardous waste, will result in a pollution prevention reduction benefit by reducing approximately 100,000 gallons of hazardous waste (D002, D007, D008, D010 and D011) per year. One such beneficial re-use is

for the spent sulfuric acid to be utilized as an ingredient in a wastewater treatment process.

19. In order to perform this SEP, Respondent commits to sending its spent sulfuric acid for reuse and recycling, as opposed to deep well injection.

20. Respondent must implement the reuse and recycling of the spent sulfuric acid for three years after the date of this CAFO, and expend a total of at least \$132,976 on the SEP (this expenditure must be made prior to the end of the SEP).

21. During the SEP, Respondent must send all of its spent sulfuric acid for reuse and/or recycling, rather than deep well injection. In case of permanent or temporary shut-down or other inability of the receiving facility(ies) to take the material, respondent must then manage its spent sulfuric acid as a hazardous waste and must ensure compliance with all requirements of a large quantity generator, in accordance with 40 C.F.R. § 262.34(a).

General SEP Provisions

22. U.S. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

23. Respondent certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

24. Respondent must submit Periodic Reports on the first and second anniversary of the effective date of this CAFO. Each Periodic Report must contain the following information:

- a. a summary of shipments, or other relevant activities, that have been made or undertaken during the reporting year;
- b. a description of any operating problems and the actions taken to correct the problems associated with SEP;

- c. the total costs Respondent expended on the SEP during the reporting year; and,
- d. an estimate of the quantity of material sent for beneficial reuse or recycling during the reporting year.

25. Respondent must submit a SEP Completion Report within thirty (30) calendar days after the third anniversary of the effective date of this CAFO. The SEP Completion Report must contain the following information:

- a. the information requested by the above paragraph, for the third year of the SEP;
- b. the total dollar amount that Respondent expended on the SEP;
- c. an estimate of the quantity of material sent for beneficial reuse or recycling during the SEP; and,
- d. certification that Respondent has completed the SEP in compliance with this CAFO.

26. Respondent must submit all notices and reports required by this CAFO by first class mail to Jamie Paulin of the RCRA Branch, U.S. EPA, at the address specified in paragraph 14, above.

27. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information; it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

28. If U.S. EPA determines that there are deficiencies in the SEP as completed, or in a SEP report, U.S. EPA will notify Respondent of the deficiencies and that they must be corrected.

Respondent may object in writing to the deficiency notice within ten (10) days of its receipt. The parties will have thirty (30) days from U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will provide Respondent a written decision on its objection. Respondent will comply with any requirements to complete the SEP that U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 29, below.

29. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. If Respondent has spent less on a SEP pursuant to this CAFO than the amount set forth in paragraph 20, above, Respondent must pay a stipulated penalty equal to the difference between the amount it spent on that SEP and the amount set forth in paragraph 20, above.
- b. If Respondent has completed the SEP, but the SEP is not satisfactorily completed, Respondent must pay \$5,000 in addition to any penalty required under subparagraph a, above.
- c. If Respondent halts or abandons work on the SEP, Respondent must pay a stipulated penalty of \$10,000, in addition to the penalty required under subparagraph a, above. Such penalties will accrue as of the date for completing the SEP or the date performance ceases, whichever is earlier.
- d. If Respondent fails to submit the SEP completion report timely, Respondent must pay stipulated penalties as follows:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$50	1st through 14th day
\$60	15th through 30th day
\$70	31st day and beyond

These penalties will accrue from the date Respondent was required to meet each milestone, until it achieves compliance with the milestone.

30. U.S. EPA's determination of whether Respondent satisfactorily completed the SEP

will bind Respondent.

31. Respondent must pay any stipulated penalties within fifteen (15) days of receiving U.S. EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraphs 12 through 15, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts (as set forth in those paragraphs).

32. Any public statement that Respondent makes referring to a SEP under the terms of this CAFO must include the following language, "Respondent undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Respondent for violations of 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)."

33. Nothing in this CAFO is intended to nor will be construed to constitute U.S. EPA approval of the disposal of any hazardous waste shipped by the Respondent.

34. Respondent must maintain, for a period of one year after the SEP Completion Report is approved, copies of the underlying information and data for all reports submitted to U.S. EPA pursuant to this CAFO. Respondent must provide the documentation of any underlying research and data to U.S. EPA within seven (7) days of U.S. EPA's request for the information.

35. Force Majeure

a. If any event occurs which causes or may cause delays in the completion of the SEP as required under this CAFO, Respondent must notify Complainant in writing not more than ten (10) days after the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice must describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to prevent or minimize

the delay, and the timetable by which those measures will be implemented. The Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitute a waiver of the Respondent's right to request an extension of its obligation under this CAFO based on such incident.

b. If the parties agree that the delay or anticipated delay in compliance with this CAFO has been or will be caused by circumstances entirely beyond the control of Respondent, the time for performance may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.

c. In the event that the U.S. EPA does not agree that a delay in achieving compliance with the requirements of this CAFO has been or will be caused by circumstances beyond the control of the Respondent, U.S. EPA will notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused.

d. The burden of proving that any delay is caused by circumstances entirely beyond the control of the Respondent shall rest with the Respondent. Increased costs or expenses associated with the implementation of actions called for by this CAFO shall not, in any event, be a basis for changes in this CAFO or extensions of time under section (b) of this paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

General Provisions

36. This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged above.

37. 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.

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

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

40. 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.

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

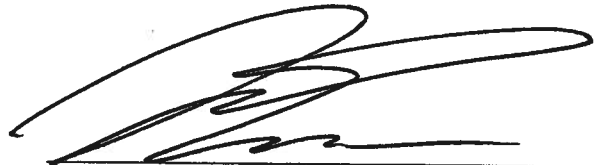
42. This CAFO constitutes the entire agreement between the parties.

**In the Matter of:
Reliable Galvanizing Company
Docket No.**

Reliable Galvanizing Company, Respondent

5/10/11

Date

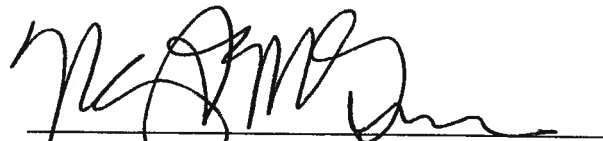


Michael Eisner
President
Reliable Galvanizing Company

United States Environmental Protection Agency, Complainant

6/23/11

Date



Margaret Guerriero
Director
Land and Chemicals Division

In the Matter of:
Reliable Galvanizing Company
Docket No. RCRA-05-2010-0026

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.

6-24-11

Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

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JUN 27 2011

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U.S. ENVIRONMENTAL
PROTECTION AGENCY

CASE NAME: Reliable Galvanizing Company

DOCKET NO: RCRA -05-2010-0026

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JUN 27 2011

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

CERTIFICATE OF SERVICE


I 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), U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed via Certified Mail, Return Receipt Requested to the following:

Mr. Michael Eisner
President
Reliable Galvanizing Company
8800 South Genoa Avenue
Chicago, Illinois 60020

Return Receipt # 7009 1689 0000 7665 5163

Dated: June 27, 2011


Margaret Gray
Administrative Program Assistant
United States Environmental Protection Agency
Land and Chemicals Division - RCRA Branch
77 W. Jackson Boulevard
Chicago, IL 60604-3590
(312) 353-5028