



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

SEP 20 2006

REPLY TO THE ATTENTION OF:

SC-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joseph G. Maternowski
Moss & Barnett
4800 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-4129

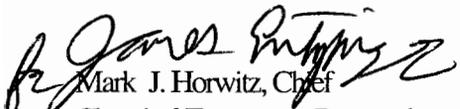
Re: Loes Enterprises, Inc., St. Paul, Minnesota
Consent Agreement and Final Order - Docket No. EPCRA-05-2005-0018

Dear Mr. Maternowski:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. EPA has filed the other original CAFO with the Regional Hearing Clerk on September 20, 2006. Please have your client pay the civil penalty in the manner prescribed in paragraphs 8, 9 and 10 and reference their checks with the number BD# 2750664E001 and docket number EPCRA-05-2005-0018. Your client has agreed to make three payments over the next two years. The first payment is due on October 1, 2006 in the amount of \$25,000; the second is due on October 1, 2007, in the amount of \$23,400; and the third payment is due on October 1, 2008 in the amount of \$22,950.

Please feel free to contact Ruth McNamara at (312) 353-3193 if you have any questions regarding the enclosed documents. Please direct any legal questions to Jeffery Trevino, Associate Regional Counsel, at (312) 886-6729. Thank you for your assistance in resolving this matter.

Sincerely yours,


Mark J. Horwitz, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

cc: Regional Hearing Clerk
U.S. EPA Region 5

Jeffery Trevino (w/enclosure)
Office of Regional Counsel
U.S. EPA Region 5

Steve Tomylanovich
MN SERC (w/enclosure)

Judge Barbara A. Gunning (w/enclosure)
Administrative Law Judge
U.S. EPA, Headquarters

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:) **DOCKET NO. EPCRA-05-2005-0018**
)
LOES ENTERPRISES, INC., ST. PAUL)
MINNESOTA,)
)
RESPONDENT.)

CONSENT AGREEMENT AND FINAL ORDER

CONSENT AGREEMENT

1. Complainant, the Chief of the Office of Chemical Emergency Preparedness and Prevention, Superfund Division, Region 5, United States Environmental Protection Agency (U.S. EPA), filed this civil administrative action pursuant to Section 325 of the Emergency Planning Community Right-To-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045.

2. On June 17, 2005, U.S. EPA filed the Complaint for this action against Respondent Loes Enterprises, Inc., St. Paul, Minnesota. The Complaint alleged Respondent failed to submit to the Minnesota State Emergency Planning Committee and local fire department by March 1, 2003, and March 1, 2004, its annual Emergency and Hazardous Chemical Inventory Form, pursuant to 40 C.F.R. Part 370.

3. On or about July 19, 2005, Respondent filed its Answer and requested a hearing under Section 325(b)(1)(B) of EPCRA, 42 U.S.C. § 11045(b)(1)(B).

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U.S. EPA

Stipulations

4. Pursuant to 40 C.F.R. § 22.18(b)(2), Respondent admits the jurisdictional allegations in the Complaint and admits or denies the factual allegations of the Complaint as documented in its Answer.

5. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

6. The parties consent to the terms of this CAFO.

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

Civil Penalty

8. U.S. EPA and Respondent agree to resolve this action for a civil penalty amount of \$70,000.00 to be paid by Respondent in three (3) separate payments, over two (2) years, at an annual interest rate of 2%, as follows; First Payment \$25,000.00, due October 1, 2006; Second Payment \$23,400.00, due October 1, 2007; Third Payment \$22,950.00, due October 1, 2008.

Respondent must pay the penalty by sending cashier's or certified checks, Payable to the "Treasury, United States of America" to:

Region 5
U.S. Environmental Protection Agency
ATTN: Finance
P.O. Box 371531
Pittsburgh, PA 15251-7531

Each check must note the case title of this matter, the docket number of the Complaint (EPCRA 05-2005-0018), and the billing document number 2750664E001 .

9. Alternatively, Respondent may pay by wire transfer to Federal Reserve Bank of New York, Routing/ABA Number 021030004 for Account Number 68010727, U.S. EPA. The wire payment must have the billing document number 2750664E001.

10. Respondent must include with each payment a transmittal letter, stating the case title, Respondent's complete address, the case docket number, and the billing document number.

Respondent must send copies of each check and transmittal letter to:

Regional Hearing Clerk
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (E-13J)
Chicago, IL 60604-3511

Ruth McNamara
Chemical Emergency Preparedness and Prevention Section
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (SC-6J)
Chicago, IL 60604-3511

Jeffery M. Trevino
Office of Regional Counsel
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (C-14J)
Chicago, IL 60604-3511

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

12. If Respondent does not pay the civil penalty timely 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's enforcement expenses for the collection action.

13. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15.00 handling charge each

month that any portion of the penalty due is more than thirty (30) days past due. U.S. EPA will assess a six percent (6%) per year penalty on any principal amount not paid timely pursuant to this CAFO.

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

15. 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.

16. This CAFO does not affect Respondent's responsibility to comply with EPCRA and other applicable federal, state, and local laws, and regulations.

17. This CAFO is a "final order" for purposes of U.S. EPA's Enforcement Response Policy for Section 325 of EPCRA.

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

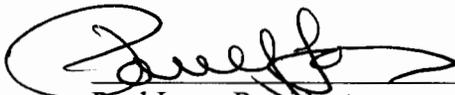
19. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

20. Each party agrees to bear its own costs and fees, including attorney's fees, for this action.

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

**In the Matter of: Loes Enterprises, Inc., St. Paul, Minnesota.
Docket No. EPCRA-05-2005-0018.
Consent Agreement and Final Order.**

RESPONDENT
Loes Enterprises, Inc.
1457 Inglehart Avenue
St. Paul, MN 55104

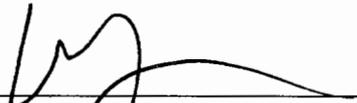


Paul Loes, President

8/28/06

Date

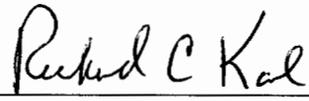
COMPLAINANT
Superfund Division
Region 5
United States Environmental Protection Agency



William J. Bolén, Chief
Emergency Response Branch I
Superfund Division

9/15/06

Date



Richard C. Karl, Director
Superfund Division

9-16-06

Date

**In the Matter of: Loes Enterprises, Inc., St. Paul, Minnesota.
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Consent Agreement and Final Order.**

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. IT IS SO ORDERED.



Bharat Mathur
Acting Regional Administrator
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago Illinois 60604-3590

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Consent Agreement and Final Order.**

CERTIFICATE OF SERVICE

I, Ruth McNamara, certify on the 20th day of September, 2006, I hand delivered the original of the Consent Agreement and Final Order for this action to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Judge Barbara A. Gunning, Administrative Law Judge, and to Respondent by placing them in the custody of the United States Postal Service addressed as follows:

Judge Barbara A. Gunning
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-2001

Joseph G. Maternowski
Moss & Barnett
4800 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-4129

Ruth McNamara
Ruth McNamara
Environmental Protection Specialist
Chemical Emergency Preparedness and Prevention Section
Superfund Division
Region 5
U.S. Environmental Protection Agency

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REGIONAL HEARING CLERK
US EPA
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