

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
2015 FEB 18 PM 2:32
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:)
)
)
SEADRIFT COKE L.P.) DOCKET NO. EPCRA-06-2014-0516
PORT LAVACA, TEXAS)
)
RESPONDENT)
_____)

CONSENT AGREEMENT AND FINAL ORDER

The Director, Multimedia Planning and Permitting Division, United States Environmental Protection Agency (EPA), Region 6 (Complainant), and Seadrift Coke L.P. (Respondent) in the above-referenced proceeding, hereby agree to resolve this matter through the issuance of this Consent Agreement and Final Order (CAFO).

I. PRELIMINARY STATEMENT

1. This proceeding for the assessment of civil penalties pursuant to Section 325(c) of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045(c), is simultaneously commenced and concluded by the issuance of this CAFO against the Respondent pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

2. For the purposes of this proceeding, the Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations contained in this CAFO.

3. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed Final Order set forth therein, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

4. Compliance with all the terms and conditions of this CAFO shall resolve only those violations which are set forth herein.

5. The Respondent consents to the issuance of this CAFO, to the assessment and payment of the stated civil penalty in the amount and by the method set forth in this CAFO, and the conditions specified in the CAFO.

6. The undersigned representative of each party to this CAFO certifies that he or she is fully authorized by the party whom he or she represents to enter into the terms and conditions of this CAFO and to execute and to legally bind that party to it.

7. The Respondent agrees that the provisions of this CAFO shall be binding on its officers, directors, employees, agents, servants, successors, and assigns.

8. The Respondent hereby certifies that as of the date of the execution of this CAFO, Seadrift Coke L.P. has corrected the violations alleged in this CAFO and is now, to the best of its knowledge, in compliance with all applicable requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

II. STATUTORY AND REGULATORY BACKGROUND

9. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30 require the owner or operator of a facility that: (a) has ten or more full-time employees; (b) is an establishment with a primary SIC major group or industry code listed in 40 C.F.R. § 372.23(a), or a primary NAICS subsector or industry code listed in 40 C.F.R. §§ 372.23(b) or (c); and (c) “manufactured, processed, or otherwise used” a toxic chemical listed under Subsection 313(c) of EPCRA and 40 C.F.R. § 372.65, in excess of the threshold quantity established under Subsection 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25, 372.27, or 372.28 during the calendar year, to submit to EPA and the State in which the facility is located, a completed EPA

Form R or EPA Form A (as appropriate) in accordance with the instructions set forth in 40 C.F.R. Part 372, Subpart E, for the preceding calendar year, for each toxic chemical known by the owner or operator to be “manufactured, processed, or otherwise used” in quantities exceeding the established threshold quantity during that preceding calendar year.

10. According to Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, the threshold amount for reporting under Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.30, is 25,000 pounds for any toxic chemical “manufactured or processed” and 10,000 pounds for any toxic chemical “otherwise used” for the applicable calendar year. Alternative reporting thresholds are set forth in 40 C.F.R. §§ 372.27 and 372.28. The reporting threshold for polycyclic aromatic compounds is 100 pounds. The reporting threshold for benzo(ghi)perylene is 10 pounds.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. PRELIMINARY ALLEGATIONS

11. The Respondent is a Delaware limited partnership and authorized to do business in Texas:

12. “Person” is defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7) as meaning “any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or interstate body.”

13. The Respondent is a “person” as that term is defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

14. The Respondent owns and operates a petroleum-based needle coke manufacturing facility located at 8618 Highway 185 North, Port Lavaca, Texas 77979.

15. "Facility" is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3 as meaning "all buildings, equipment, structures, and other stationary source items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person)."

16. The manufacturing facility identified in Paragraph 14 is a "facility", as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3.

17. "Full-time employee" is defined by 40 C.F.R. § 372.3 as meaning "2000 hours per year of full-time equivalent employment. A facility would calculate the number of full-time employees by totaling the hours worked during the calendar year by all employees, including contract employees, and dividing that total by 2000 hours."

18. The Respondent's facility has ten (10) or more "full-time employees" as that term is defined by 40 C.F.R. § 372.3.

19. The Respondent's facility is an establishment with a primary SIC code of 29.

20. Primary SIC Code 29 is listed in 40 C.F.R. § 372.23(a).

21. The Respondent's facility is an establishment with a NAICS subsector or industry code 324.

22. NAICS subsector or industry code 324 is listed in 40 C.F.R. § 372.23(b).

23. Benzene, benzo(ghi)perylene, ethyl benzene, hydrogen sulfide, n-hexane, naphthalene, polycyclic aromatic compounds, propylene, toluene, and xylene (mixed isomers) are "toxic chemicals" within the meaning of 40 C.F.R. §§ 372.3 and 372.65.

B. VIOLATIONS

Count One – Failure to Timely Submit Form R for Calendar Year 2008

24. During calendar year 2008, the Respondent “manufactured, processed, and/or otherwise used” polycyclic aromatic compounds in excess of the applicable threshold quantity.

25. The Respondent failed to submit Form Rs to EPA and the State of Texas for polycyclic aromatic compounds by July 1, 2009.

26. Therefore, the Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit a Form R for polycyclic aromatic compounds for calendar year 2008 to EPA and to the State of Texas by July 1, 2009.

Count Two – Failure to Timely Submit Form Rs for Calendar Year 2009

27. 40 C.F.R. § 372.27 provides that the owner or operator of a facility may apply an alternative threshold of 1 million pounds per year of that chemical if the owner or operator calculates that the facility would have an annual reportable amount of that toxic chemical not exceeding 500 pounds for the combined total quantities released at the facility, disposed within the facility, treated at the facility (as represented by amounts destroyed or converted by treatment processes), recovered at the facility as a result of recycle operations, combusted for the purpose of energy recovery at the facility, and amounts transferred from the facility to off-site locations for the purpose of recycle, energy recovery, treatment and/or disposal. The owner or operator may file a certification statement that contains the information required in 40 C.F.R. § 372.95 (Form A) instead of a Form R.

28. During calendar year 2009, the Respondent “manufactured, processed, and/or otherwise used” the following toxic chemicals at the Respondent’s facility in excess of the applicable threshold quantities:

- A. n-hexane;
- B. polycyclic aromatic compounds;
- C. propylene;
- D. toluene; and
- E. xylene.

29. On or before July 1, 2010, the Respondent filed Form As instead of Form Rs for n-hexane, propylene, toluene, m-xylene, and o-xylene.

30. The annual reportable amount [as described in 40 C.F.R. § 372.27(a)] for n-hexane, propylene, toluene, and xylene released at the facility was 500 pounds or greater during calendar year 2009.

31. The Respondent failed to submit Form Rs to EPA and the State of Texas for n-hexane, propylene, toluene, and xylene.

32. The Respondent failed to submit a Form R to EPA and the State of Texas for polycyclic aromatic compounds by July 1, 2010.

33. Therefore, the Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit Form Rs for n-hexane, propylene, toluene, xylene, and polycyclic aromatic compounds for calendar year 2009 to EPA and to the State of Texas by July 1, 2010.

Count Three – Failure to Timely Submit Form Rs for Calendar Year 2010

34. During calendar year 2010, the Respondent “manufactured, processed, and/or otherwise used” the following toxic chemicals at the Respondent’s facility in excess of the applicable threshold quantities:

- A. benzene;
- B. benzo(ghi)perylene;
- C. ethyl benzene;
- D. naphthalene;
- E. polycyclic aromatic compounds;
- F. propylene

- G. toluene; and
- H. xylene (mixed isomers).

35. The Respondent failed to submit Form Rs to EPA and the State of Texas for benzene, benzo(ghi)perylene, ethyl benzene, naphthalene, polycyclic aromatic compounds, propylene, toluene, and xylene by July 1, 2011.

36. Therefore, the Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit Form Rs for benzene, benzo(ghi)perylene, ethyl benzene, naphthalene, polycyclic aromatic compounds, propylene, toluene, and xylene for calendar year 2010 to EPA and to the State of Texas by July 1, 2011.

Count Four – Failure to Timely Submit Form R for Calendar Year 2012

37. During calendar year 2012, the Respondent “manufactured, processed, and/or otherwise used” hydrogen sulfide in excess of the applicable threshold quantity.

38. The Respondent failed to submit Form Rs to EPA and the State of Texas for hydrogen sulfide by July 1, 2013.

39. Therefore, the Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 by failing to submit a Form R for hydrogen sulfide for calendar year 2012 to EPA and to the State of Texas by July 1, 2013.

IV. TERMS OF SETTLEMENT

A. CIVIL PENALTY

40. For the reasons set forth above, the Respondent has agreed to pay a civil penalty which has been determined in accordance with Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), which authorizes EPA to assess a civil penalty of up to Thirty-Seven Thousand Five Hundred

Dollars (\$37,500) per day for each violation of Section 313 of EPCRA.¹ Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the nature, circumstances, extent and gravity of the alleged violations, and with respect to the Respondent, ability to pay, lack of prior EPCRA Section 313 violations, the degree of culpability, economic benefit or savings (if any) resulting from the violations, and other factors as justice may require, it is **ORDERED** that the Respondent be assessed a civil penalty of **One Hundred Thirty Thousand Dollars (\$130,000)**.

41. The Respondent shall pay the assessed civil penalty by certified check, cashier's check, or wire transfer, made payable to "Treasurer, United States of America, EPA - Region 6". Payment shall be remitted in one of three (3) ways: regular U.S. Postal mail (including certified mail), overnight mail, or wire transfer. For regular U.S. Postal mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check(s) should be remitted to:

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

For overnight mail (non-U.S. Postal Service, e.g. Fed Ex), the check(s) should be remitted to:

¹ The amount of penalty that can be assessed under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c) was increased by the Civil Monetary Penalty Inflation Adjustment Rule codified at 40 C.F.R. Part 19 to \$27,500 per day of violation, for violations occurring between January 30, 1997 and March 15, 2004, and \$32,500 per day of violation for violations which occurred between March 15, 2004 and January 12, 2009, and to \$37,500 per day of violation for violations which occurred after January 12, 2009.

U.S. Bank
Government Lockbox 979077 US EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Phone No. (314) 418-1028

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental
Protection Agency"

PLEASE NOTE: Docket number EPCRA-06-2014-0516 shall be clearly typed on the check, or other method of payment, to ensure proper credit. If payment is made by check, the check shall also be accompanied by a transmittal letter and shall reference the Respondent's name and address, the case name, and docket number of the CAFO. If payment is made by wire transfer, the wire transfer instructions shall reference the Respondent's name and address, the case name, and docket number of the CAFO. The Respondent shall also send a simultaneous notice of such payment, including a copy of the check and transmittal letter, or wire transfer instructions to the following:

Stan Lancaster
EPCRA 313 Enforcement Officer
Toxics Section (6PD-T)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Lorena Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

The Respondent's adherence to this request will ensure proper credit is given when penalties are received by EPA and acknowledged in the Region.

42. The Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

43. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. *See* 40 C.F.R. § 13.11(b).

44. EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. *See* 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. *See* 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

45. This document is a "Final Order" as that term is defined in the "Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act

(1986) and Section 6607 of the Pollution Prevention Act (1990),” dated August 10, 1992; Amended, April 21, 2001, for the purpose of demonstrating a history of “prior such violations”.

B. SUPPLEMENTAL ENVIRONMENTAL PROJECT

46. The Respondent shall implement the following supplemental environmental project:

A. The Respondent shall replace cylinders of chlorine gas used at the North Cooling Tower, the South Cooling Tower, and the Raw Water and Potable Water Systems with an aqueous sodium hypochlorite solution. The hypochlorite solution will be delivered to the site in “tote” tanks which will serve as both delivery containers and storage while in service. Each tote tank shall be composed of polyethylene and surrounded by a galvanized steel support cage. There will be one tote located in the water treatment area which will serve to treat raw water, potable water and the south cooling tower. A second tote will be located near the north cooling tower. The tote tank will be installed on a polyethylene spill containment unit on an existing concrete pad. The tote will feed a metering pump, which will control the amount of hypochlorite added. In each installation, a free chlorine analyzer will be installed to control the metering pump rate. Redundant pumps and analyzers will be installed to assure the necessary reliability. At each installation, electrical lines will be installed as necessary to power the meter and pump and instrumentation wiring installed to connect each system with the plant control systems.

B. Variations from the description above that do not impact the nature or purpose of the SEP shall be permitted, consistent with final detailed engineering and design specifications for the sodium hypochlorite system.

C. The SEP shall be fully operational within one year from the effective date of this CAFO.

47. The Respondent is responsible for the satisfactory completion of the SEP. The total expenditure for the SEP described in Paragraph 43 shall be no less than \$190,000. Eligible SEP costs do not include inventory on hand, overhead, additional employee time and salary, administrative expenses, legal fees, and oversight of a contractor. The Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

48. The Respondent hereby certifies that, as the date of this CAFO, the Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is the Respondent required to perform or develop the SEP by any other agreement, grant, or as injunctive relief in this or any other case. The Respondent further certifies that the SEP was not a project that the Respondent was planning or intending to construct, perform, or implement other than in settlement of this action. Finally, the Respondent certifies that it has not received, and is not presently negotiating to receive credit in any other enforcement action for this SEP.

49. The Respondent's signatory to this CAFO, by signing the CAFO, makes the following additional certification:

The Respondent is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purpose of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

50. For federal income tax purposes, the Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

SEP Completion Report

51. The Respondent shall submit a SEP Completion Report to EPA within thirty (30) days after completion of the SEP. The SEP Completion Report shall contain the following information:

- A. A detailed description of the SEP as implemented;
- B. A description of any operating or logistical problems encountered and the solutions thereto;
- C. Itemized final costs with copies of receipts for all expenditures;
- D. Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO; and
- E. A description of the environmental, emergency preparedness, and/or public health benefits resulting from implementation of this SEP.

52. The Respondent agrees that failure to timely submit the final SEP Completion Report shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to Paragraph 57.F.

53. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

54. The Respondent shall submit the following certification in the SEP Completion Report, signed by a responsible corporate official:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

55. After receipt of the SEP Completion Report described in Paragraph 51 above, EPA will notify the Respondent, in writing: (a) identifying any deficiencies in the SEP Report itself along with a grant of an additional thirty (30) days for the Respondent to correct any deficiencies; (b) indicating that EPA concludes that the project has been completed satisfactorily; or (c) determining that the project has not been completed satisfactorily and seeking stipulated penalties in accordance with Paragraph 57 below.

56. If the SEP Report is determined to be deficient but EPA has not yet made a final determination about the adequacy of the SEP completion itself, EPA shall permit the Respondent the opportunity to object in writing to the notification of deficiency given pursuant to Paragraph 55 within ten (10) days of receipt of such notification. EPA and the Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon the Respondent. In the event the SEP is not completed as reasonably contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Paragraph 60 herein.

Stipulated Penalties for Failure to Complete SEP/Failure to Spend Agreed-On Amount

57. In the event that the Respondent fails to comply with any of the terms or provisions of this CAFO relating to the performance of the SEP described in Paragraph 46 of this CAFO and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in Paragraph 47 above, the Respondent shall be liable for stipulated penalties according to the provisions set forth below:

A. Except as provided in subparagraph (B) immediately below, for a SEP which has not been completed satisfactorily pursuant to this CAFO, the Respondent shall pay a stipulated penalty to the United States in the amount of \$190,000 (100% of the amount the penalty was mitigated).

B. If the SEP is not completed in accordance with Paragraphs 46 - 47, but EPA determines that the Respondent: a) made good faith and timely efforts to complete the project; and b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, the Respondent shall not be liable for any stipulated penalty.

C. If the SEP is completed in accordance with Paragraphs 46 - 47, but the Respondent spent less than 90 percent of the amount of money required to be spent for the project, the Respondent shall pay a stipulated penalty to the United States in the amount of \$76,000 [40% of the amount the penalty was mitigated (\$190,000)].

D. If the SEP is completed in accordance with Paragraphs 46 - 47 and the Respondent spent at least 90 percent of the amount of money required to be spent for the project, the Respondent shall not be liable for any stipulated penalty.

E. If the Respondent fails to timely complete the SEP for any reason, the Respondent shall pay stipulated penalties as follows:

<u>Period of Noncompliance</u>	<u>Penalty Per Violation Per Day</u>
1st through 15th day	\$ 1,000
16th through 30th day	\$ 1,500
31st day and beyond	\$ 2,500

F. For failure to submit the SEP Completion Report required by Paragraph 51 above, the Respondent shall pay a stipulated penalty in the amount of \$500 for each day after the report was originally due, until the report is submitted.

58. The determinations of whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.

59. Stipulated penalties for Paragraphs 57.E and 57.F above shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.

60. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of Paragraph 41 herein. Interest and late charges shall be paid as stated in Paragraphs 43 - 44 herein.

C. NOTIFICATION

61. Unless otherwise specified elsewhere in this CAFO, whenever notice is required to be given, whenever a report or other document is required to be forwarded by one party to another, or whenever a submission or demonstration is required to be made, it shall be directed

to the individuals specified below at the addresses given (in addition to any action specified by law or regulation), unless these individuals or their successors give notice in writing to the other parties that another individual has been designated to receive the communication:

Complainant:

Stan Lancaster
EPCRA 313 Enforcement Officer
Toxics Section (6PD-T)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Respondent

Eric Skach
8618 State Hwy. 185 North
P.O. Box 192
Port Lavaca, TX 77979

With a copy to:

Allen Kacenjjar
Squire Patton Boggs (US) LLP
4900 Key Tower, 127 Public Square
Cleveland, OH 44114

D. MODIFICATION

62. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except as otherwise specified in this CAFO, or upon the written agreement of the Complainant and the Respondent, and approved by the Regional Judicial Officer, and such modification or amendment being filed with the Regional Hearing Clerk.

E. RETENTION OF ENFORCEMENT RIGHTS

63. The EPA does not waive any rights or remedies available to EPA for any other violations by the Respondent of Federal or State laws, regulations, or permitting conditions.

64. Nothing in this CAFO shall relieve the Respondent of the duty to comply with all applicable provisions of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

65. Except as specifically provided in this CAFO, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate or minimize an actual or threatened release of hazardous substances, pollutants, contaminants, hazardous substances on, at or from the Respondent's facility. Furthermore, nothing in this CAFO shall be construed to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.

F. INDEMNIFICATION OF EPA

66. Neither EPA nor the United States Government shall be liable for any injuries or damages to person or property resulting from the acts or omissions of the Respondent, its officers, directors, employees, agents, receivers, trustees, successors, assigns, or contractors in carrying out the activities required by this CAFO, nor shall EPA or the United States Government be held out as a party to any contract entered into by the Respondents in carrying out the activities required by this CAFO.

G. COSTS

67. Each party shall bear its own costs and attorney's fees. Furthermore, the Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17.

H. TERMINATION

68. At such time as the Respondent believes it is in compliance with all requirements of this CAFO, it may request that EPA concur whether all of the requirements of this CAFO have been satisfied. Such request shall be in writing and shall provide the necessary documentation to establish whether there has been full compliance with the terms and conditions of this CAFO. EPA will respond to said request in writing within thirty (30) days of receipt of the request. This CAFO shall terminate when all actions required to be taken by this CAFO have been completed, and the Respondents have been notified by the EPA in writing that this CAFO has been satisfied and terminated.

I. EFFECTIVE DATE

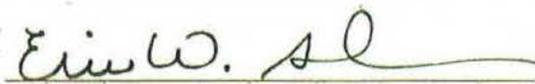
69. This CAFO, and any subsequent modifications, become effective upon filing with the Regional Hearing Clerk.

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THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:

FOR THE RESPONDENT:

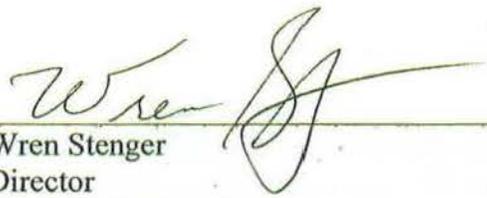
Date: 2/2/2015



Eric Skach
President & General Manager
Seadrift Coke L.P.

FOR THE COMPLAINANT:

Date: 2/17/2015



Wren Stenger
Director
Multimedia Planning and
Permitting Division
U.S. EPA – Region 6

V. FINAL ORDER

Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in the Consent Agreement. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, directors, employees, agents, servants, successors, and assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated 2/18/15



Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of February, 2015, the original and one copy of the foregoing Consent Agreement and Final Order (CAFO) was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and a true and correct copy of the CAFO was delivered to the following individual by the method indicated below:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED # 7007 0710 0002 1385 1668

Allen A. Kacenjar
Squire Patton Boggs (US) LLP
4900 Key Tower
127 Public Square
Cleveland, OH 44114

Evan L Pearson