



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
March 24, 2014

REPLY TO THE ATTENTION OF:
LC- 8J

CERTIFIED MAIL: No.7009 1680 0000 7647 6447
RETURN RECEIPT REQUESTED

Mr. Joshua J. Houser
3150 Roland Ave.
P.O. Box 5776
Springfield, Illinois 62705

Consent Agreement and Final Order In the Matter of
Prairie Power, Inc. Docket No. EPCRA-05-2014-0011

Mr. Houser:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order, in resolution of the above case. This document was filed on March 24, 2014 with the Regional Hearing Clerk.

The civil penalty in the amount of \$20,468 is to be paid in the manner described in paragraphs 26 and 27. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by April 23, 2014 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Meghan Dunn".

Meghan Dunn
Pesticides and Toxics Compliance Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5



In the Matter of:

Prairie Power, Inc.
Pearl, Illinois

Respondent.

) Docket No. EPCRA-05-2014-0011
)

) Proceeding to Assess a Civil Penalty
) Under Section 325(c) of the Emergency
) Planning and Community Right-to-Know
) Act of 1986, 42 U.S.C. § 11045(c)
)

Consent Agreement and Final Order

1. This is an administrative action commenced and concluded under Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c), 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, U. S. Environmental Protection Agency, Region 5.

3. Respondent is Prairie Power, Inc., a not-for-profit corporation doing business in the State of Illinois.

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

5. 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.

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

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. 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.

9. Respondent certifies that it is complying with Section 313 of EPCRA, 42 U.S.C. § 11023.

Statutory and Regulatory Background

10. 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 has 10 or more full-time employees; is covered by certain Standard Industrial Classification (SIC) codes; meets one of the criteria set forth in 40 C.F.R. § 372.22(b)(1)-(3); and manufactured, processed or otherwise used a toxic chemical in an amount exceeding an applicable threshold quantity of that chemical listed under Section 313(f) of EPCRA and 40 C.F.R. § 372.28, during the calendar year, to complete and submit a toxic chemical release inventory form (Form R) to the Administrator of EPA and to the state in which the subject facility is located by July 1 for each toxic chemical manufactured, processed or otherwise used in quantities exceeding the established threshold during the preceding calendar year.

11. As set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28, the reporting threshold amount for lead compounds manufactured, processed or otherwise used at a facility is 100 pounds for calendar years including and subsequent to 2001.

12. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), authorizes the Administrator of EPA to assess a civil penalty of up to \$25,000 per day for each violation of Section 313 of

EPCRA. The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note (1990), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required federal agencies to issue regulations adjusting for inflation the maximum civil penalties that may be assessed pursuant to each agency's statutes. EPA may assess a civil penalty of up to \$37,500 per day for each violation of Section 313 of EPCRA that occurred after January 12, 2009, pursuant to Section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

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

14. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 13476 State Highway 100, Pearl, Illinois.

15. At all times relevant to this CAFO, Respondent had "10 or more full-time employees," as defined at 40 C.F.R. § 372.3, and was an employer at the facility.

16. Respondent's facility consists of buildings, equipment, structures and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person.

17. Respondent's facility is a "facility" as that term is defined at Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

18. The facility has a SIC code of 4911, a covered SIC code as defined at Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.22.

Count 1

19. During calendar year 2010, Respondent's facility manufactured, as that term is

defined at 40 C.F.R. § 372.3, lead compounds, a chemical category or CAS No. listed under 40 C.F.R. § 372.65, in an amount which is greater than 100 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.

20. During calendar year 2010, Respondent's facility otherwise used, as that term is defined at 40 C.F.R. § 372.3, lead compounds, a chemical category or CAS No. listed under 40 C.F.R. § 372.65, in an amount which is greater than 100 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.

21. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for lead compounds for calendar year 2010 by July 1, 2011.

22. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for lead compounds for calendar year 2010 by July 1, 2011.

23. Respondent submitted Form R for lead compounds to the Administrator of EPA and to Illinois on January 23, 2014 for calendar year 2010.

24. Respondent's failure to submit timely a Form R for lead compounds to the Administrator of EPA and to Illinois for calendar year 2010 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Civil Penalty

25. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, Complainant determined that an appropriate civil penalty to settle this action is \$20,468.00. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violations, and any other matters as justice may require. Complainant also considered EPA's 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) (amended) (April 12, 2001).

26. Within 30 days after the effective date of this CAFO, Respondent must pay a \$20,468.00 civil penalty for the EPCRA violations by electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
“D 68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state Prairie Power, Inc. and the docket number of this CAFO.

27. Respondent must send a notice of payment that states Respondent’s name, complete address and the case docket number to EPA at the following addresses when it pays the penalty:

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

Meghan Dunn (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Christine Liszewski (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

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

29. If Respondent does not pay timely the civil penalty, 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.

30. 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 the payment was due at a rate established pursuant to 31 U.S.C. § 3717. 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

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

32. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

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

34. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for Section 313 of EPCRA.

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

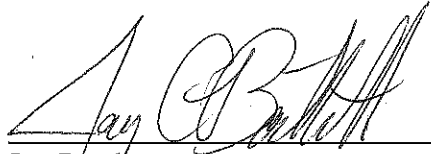
36. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

37. Each party agrees to bear its own costs and attorneys fees in this action.

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

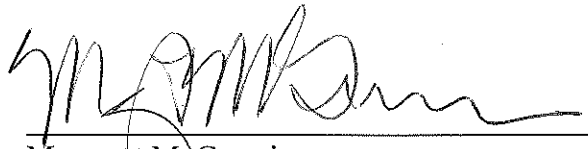
Prairie Power, Inc., Respondent

2/24/2014
Date


Jay Bartlett
Chief Executive Officer
Prairie Power, Inc.

United States Environmental Protection Agency, Complainant

3/18/2014
Date


Margaret M. Guerriero
Director
Land and Chemicals Division


In the Matter of:
Prairie Power, Inc.
Docket No. EPCRA-05-2014-0011



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.

3/20/2014
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

CERTIFICATE OF SERVICE

I hereby certify that the original signed copy of the Consent Agreement and Final Order in resolution of the civil administrative action involving Prairie Power, Inc., was filed on March 24, 2014, with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and that I mailed by Certified Mail, Receipt No. 7009 1680 0000 7647 6447, and a copy of the original to the Respondent:

Mr. Joshua J. Houser
3150 Roland Ave.
P.O. Box 5776
Springfield, Illinois 62705



and forwarded copies (intra-Agency) to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J
Christine Liszewski, Regional Judicial Officer, ORC/C-14J
Eric Volck, Cincinnati Finance/MWD

A handwritten signature in blue ink that reads "Frederick Brown".

Frederick Brown
Pesticides and Toxics Compliance Section
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. EPCRA-05-2014-0011