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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
U.S. EPA REGION IX
REGIONAL HEARING CLERK

In the matter of)	U.S. EPA Docket No.
)	RCRA- 9-2010- 0001
Art Craft Paint, Inc.)	
)	CONSENT AGREEMENT AND
EPA ID No. CAD 982039810)	FINAL ORDER PURSUANT TO
)	40 C.F.R. SECTIONS 22.13 AND
<u>Respondent.</u>)	22.18

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 Code of Federal Regulations ("C.F.R.") Part 22, as revised by 64 Fed. Reg. 141 (July 23, 1999). Complainant is the United States Environmental Protection Agency, Region 9 ("EPA"). Respondent is Art Craft Paint, Inc. (Respondent or "Art Craft").
2. Respondent owns and operates a facility located at 3203 Lighting St., Ste. 108, Santa Maria, California 93455 (the "Facility"). The Facility's EPA Identification Number is CAD 982039810. Respondent is a California corporation which specializes in painting metal.
3. This Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 ("CA/FO"), simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent violated the following provisions of RCRA: (1) storage of hazardous waste without a permit (including storage of hazardous waste over 90 days and failure to comply with labeling requirements), a violation of 22 California Code of Regulations ("C.C.R.") § 66270.1 [see also 40 C.F.R. § 270.1]; (2) failure to close containers of hazardous waste, a violation of 22 C.C.R. § 66265.173(a) [see also 40 C.F.R. § 265.173(a)]; (3) failure to comply with tank management requirements (including leak detection, daily inspection, secondary containment and tank certification),

a violation of 22 C.C.R. §§ 66265.191(a), 66265.193(a) & (c)(3), and 66265.195(a) [*see also* 40 C.F.R. §§ 265.191(a), 265.193(a) & (c)(3), and 265.195(a)]; (4) lack of adequate aisle space for containers, a violation of 22 C.C.R. § 66265.35 [*see also* 40 C.F.R. § 265.35]; (5) provide annual refresher training and maintain training records, a violation of 22 C.C.R. § 66265.16(d)(1-4) [*see also* 40 C.F.R. § 265.16(d)(1-4)]; (6) failure to conduct weekly inspections, a violation of 22 C.C.R. § 66265.174 [*see also* 40 C.F.R. § 265.174]; (7) failure to maintain a contingency plan, a violation of 22 C.C.R. § 66265.51(a) [*see also* 40 C.F.R. § 265.51(a)]; (8) failure to submit a biennial report for 2005 or 2007, a violation of 22 C.C.R. § 66262.41(a) [*see also* 40 C.F.R. § 262.41]; and (9) failure to make a hazardous waste determination, a violation of 22 C.C.R. § 66262.11 [*see also* 40 C.F.R. § 262.11]. These are all in violation of Section 3001 *et seq.* of RCRA, 42 U.S.C. § 6921 *et seq.*, and state regulations adopted pursuant thereto.¹

B. JURISDICTION

4. On August 1, 1992, the State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to § 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271. The authorized program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. §§ 66001 *et seq.* The State of California has been authorized for all the regulations referenced in this CA/FO.
5. Respondent is a "person" as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
6. Respondent is the "operator" of a facility as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
7. Respondent's hazardous waste manifests indicate it is a large quantity "generator" of hazardous waste as defined in 22 C.C.R. § 66260.10 [40 C.F.R. § 260.10].
8. Respondent is or has been engaged in "storage" of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].

¹ All citations to the "C.C.R." refer to Division 4.5 of Title 22 of the current California Code of Regulations. EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States on August 1, 1992 (*see* 57 FR 32726, July 23, 1992) and September 26, 2001 (66 FR 49118, September 26, 2001). Corresponding Federal citations are provided in brackets.

9. Respondent generates and accumulates, or has generated and accumulated, materials that are "wastes" as defined in 22 C.C.R. §§ 66260.10 and 66261.2 [*see also* 40 C.F.R. §§ 260.10 and 261.2].
10. At the Facility, Respondent generates and accumulates, or has generated and accumulated, "hazardous waste" as defined in California Health & Safety Code § 25117, and 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* RCRA § 1004(5), and 40 C.F.R. §§ 260.10 and 261.3]. These hazardous wastes include, but are not limited to, spent dichloromethane (F002) and ignitable wastes (D001) including waste paints.
11. On April 25, 2008, an unannounced RCRA Compliance Evaluation Inspection ("CEI") was conducted by inspectors from the United States EPA. The purpose of the inspection was to determine compliance of Respondent with hazardous waste regulations in 40 CFR Subtitle C, Parts 261-265, 268, 273 and 279, and the regulations adopted by the California authorized program under RCRA Subtitle C in the California Code of Regulations, Title 22, Division 4.5 and the California Health and Safety Code, Division 20. Based upon the findings EPA made during the inspection, and additional information obtained subsequent to the inspection, EPA determined that Respondent had violated California Health & Safety Code § 25100 *et seq.* and the regulations adopted pursuant thereto, as approved and authorized by the United States.
12. Section 3006 of RCRA, 42 U.S.C. § 6926 provides, *inter alia*, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
13. A violation of California's authorized hazardous waste program, found at H&SC § 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California's authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.
14. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. § 6921 *et seq.*
15. The Administrator has delegated the authority under Section 3008 of RCRA to the EPA Regional Administrator for Region 9, who has redelegated this authority to the Director of the Waste Management Division.

C. ALLEGED VIOLATIONS

COUNT I

Storage of Hazardous Waste Without a Permit

16. Paragraphs 1 through 15 above are incorporated herein by this reference as if they were set forth here in their entirety.
17. 22 C.C.R. § 66270.1(c) requires that each person owning or operating a facility where hazardous waste is transferred, treated, stored, or disposed must have a permit. At the time of the inspection, Respondent did not have a permit or grant of interim status to store hazardous waste under 22 C.C.R. § 66270.1(c) [*see also* 40 C.F.R. § 270.1(c)].
18. 22 C.C.R. § 66262.34(a) provides that a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit or grant of interim status provided the generator meets certain conditions. 22 C.C.R. § 66262.34(f) requires that generators label containers with the words "hazardous waste" and with the date accumulation of the waste begins, and the label must be visible for inspection [*see also* 40 C.F.R. § 262.34(a)]. 22 C.C.R. § 66262.34(c)(1) provides that a generator may accumulate up to 55 gallons of hazardous waste at a satellite accumulation area [*see also* 40 C.F.R. § 262.34(c)(1)]. Large quantity generators who store hazardous waste over 90 days or who fail to label containers of hazardous waste fail to meet the requirements of 22 C.C.R. § 66262.34, and are subject to the permitting requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].
19. On April 25, 2008, the EPA Inspector observed that there were 114 55 gallon drums of hazardous waste in the main hangar. Some of these hazardous wastes had been onsite since shortly after the last off-site shipment of hazardous wastes on August 7, 2007. These wastes were not manifested offsite until May 28, 2008, 296 days later.
20. In addition, a 1000 gallon and 750 gallon tank outside the small hangar had contained F002 hazardous waste since 1995.
21. At the time of the April 25, 2008 inspection, the EPA Inspector observed numerous drums that were either unlabeled or only partially labeled, including 77 55 gallon drums of dichloromethane in the hangar; 18 55 gallon drums of water contaminated with dichloromethane; 2 55 gallon drums near the office; 3 55 gallon drums of waste dichloromethane in a room adjacent to the main hangar; and one 55 gallon drum of waste paint.
22. Respondent's failure to meet the requirements set forth or referenced by 22 C.C.R. § 66262.34 subject it to the permit requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. §§ 262.34 and 270.1]. Therefore EPA alleges that Respondent stored hazardous

waste without a permit, a violation of 22 C.C.R. § 66270.1(c) [*see also* 40 C.F.R. § 270.1(c)].

COUNT II

Failure to Close Containers of Hazardous Waste

23. Paragraphs 1 through 22 above are incorporated herein by this reference as if they were set forth here in their entirety.
24. 22 C.C.R. § 66265.173(a) provides that containers of hazardous waste should remain closed, except when it is necessary to add or remove waste [*see also* 40 C.F.R. § 265.173(a)].
25. On April 25, 2008, the EPA Inspector observed 21 55 gallon drums in the main hangar with open bungs.
26. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 22 C.C.R. § 66265.173(a) [*see also* 40 C.F.R. § 265.173(a)].

COUNT III

Failure to Comply with Tank Management Requirements

27. Paragraphs 1 through 26 above are incorporated herein by this reference as if they were set forth here in their entirety.
28. 22 C.C.R. § 66265.190, et seq. provides that facilities must maintain provide adequate safeguards, including secondary containment, to prevent the release of hazardous constituents into the environment, including a leak detection system (22 C.C.R. § 66265.193(c) [*see also* 40 C.F.R. § 265.193(c)]), daily inspections (22 C.C.R. § 66265.195(a) [*see also* 40 C.F.R. § 265.195(a)]), tank certification (22 C.C.R. § 66265.191(a) [*see also* 40 C.F.R. § 265.191(a)]), and secondary containment (22 C.C.R. § 66265.193(a) [*see also* 40 C.F.R. § 265.193(a)]).
29. On April 25, 2008, the EPA Inspector observed that the wastewater traps in the main and smaller hangars and the 750-gallon tank outside the smaller hangar did not have leak detection systems; the wastewater traps, the 1000 gallon tank and 750 gallon tank were not inspected daily and had no engineer's certification; and the water traps in the main and smaller hangars did not have secondary containment.
30. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66265.193(c) [*see also* 40 C.F.R. § 265.193(c)], 22 C.C.R. § 66265.195(a) [*see also* 40 C.F.R. § 265.195(a)], 22 C.C.R. § 66265.191(a) [*see also* 40 C.F.R. § 265.191(a)], and 22 C.C.R. § 66265.193(a) [*see also* 40 C.F.R. § 265.193(a)]).

COUNT IV

Failure to Maintain Adequate Aisle Space

31. Paragraphs 1 through 30 above are incorporated herein by this reference as if they were set forth here in their entirety.
32. 22 C.C.R. § 66265.35 requires that the owner or operator maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and any decontamination equipment to any area of facility operations in an emergency [*see also* 40 C.F.R. § 265.35].
33. On April 25, 2008, the EPA Inspector observed that there was inadequate aisle space such that 65 55 gallon drums in the main hangar lacked access.
34. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66265.35 [*see also* 40 C.F.R. § 265.35].

COUNT V

Failure to Comply with Training Requirements

35. Paragraphs 1 through 34 above are incorporated herein by this reference as if they were set forth here in their entirety.
36. 22 C.C.R. § 66265.16(c) requires that facility personnel must successfully complete annual refresher training to perform their duties in a way that ensures the facility's compliance with the requirements of applicable hazardous waste law and 22 C.C.R. § 66265.16(d)(1-4) requires that the owner or operator of a facility maintain training records at the facility [*see also* 40 C.F.R. § 265.16(c) and 40 C.F.R. § 265.16(d)(1-4)].
37. At the time of the April 25, 2008 CEI, facility personnel had not received required refresher training and the owner or operator was not maintaining required training records.
38. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66265.16(c) and 22 C.C.R. § 66265.16(d)(1-4) [*see also* 40 C.F.R. § 265.16(c) and 40 C.F.R. § 265.16(d)(1-4)].

COUNT VI

Failure to Conduct Weekly Inspections

39. Paragraphs 1 through 38 above are incorporated herein by this reference as if they were set forth here in their entirety.

40. 22 C.C.R. § 66265.174 requires that the facility conduct weekly inspections of its hazardous waste storage areas [*see also* 40 C.F.R. § 265.174].
41. At the time of the April 25, 2008 CEI, facility personnel had not been conducting weekly inspections of its hazardous waste storage areas.
42. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66265.174 [*see also* 40 C.F.R. § 265.174)].

COUNT VII

Failure to Have a Contingency Plan

43. Paragraphs 1 through 42 above are incorporated herein by this reference as if they were set forth here in their entirety.
44. 22 C.C.R. § 66265.51(a) requires that each owner or operator must have a contingency plan for his or her facility [*see also* 40 C.F.R. § 265.51(a)].
45. At the time of the April 25, 2008 CEI, Respondent did not have a contingency plan.
46. Therefore, EPA alleges that Respondent has failed to comply with the requirements of 22 C.C.R. §§ 66265.51(a) [*see also* 40 C.F.R. § 265.51(a)].

COUNT VIII

Failure to File Biennial Reports

47. Paragraphs 1 through 46 above are incorporated herein by this reference as if they were set forth here in their entirety.
48. 22 C.C.R. § 66262.41(a) requires that each owner or operator file a biennial report for the hazardous waste generated the prior year [*see also* 40 C.F.R. § 262.41(a)].
49. At the time of the April 25, 2008 CEI, Respondent had not filed a biennial report for 2005 or 2007.
50. Therefore, EPA alleges that Respondent has failed to comply with the requirements of 22 C.C.R. §§ 66262.41(a) [*see also* 40 C.F.R. § 262.41(a)].

COUNT IX

Failure to Make a Hazardous Waste Determination

51. Paragraphs 1 through 50 above are incorporated herein by this reference as if they were set forth here in their entirety.

52. 22 C.C.R. § 66262.11 requires that each generator make a hazardous waste determination for each hazardous waste generated [*see also* 40 C.F.R. § 26.2.11].
53. At the time of the April 25, 2008 CEI, Respondent had not made a hazardous waste determination for two unlabeled 55 gallon drums of waste solvents lacquer thinner, three 55 gallon drums of waste dichloromethane, one 55 gallon drum of waste paint, four 5 gallon buckets apparently containing used oil, air filters, spent fluorescent lamps, one full 1000 gallon tank labeled "hazardous waste," and one $\frac{3}{4}$ full 750 gallon tank labeled "hazardous waste."
54. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66262.11 [*see also* 40 C.F.R. § 262.11].

D. CIVIL PENALTY

55. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as adjusted by the Debt Collection Improvement Act of 1996, *see* 61 Fed. Reg. 69360 (Dec. 31, 1996), and the Civil Monetary Penalty Inflation Adjustment Rule, *see* 69 Fed. Reg. 7121 (Feb. 13, 2004), authorizes a civil penalty of up to TWENTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$27,500) per day for violations of Subtitle C of RCRA, 42 U.S.C. § 6921 *et seq.*, occurring between January 31, 1997 and March 15, 2004. The Civil Monetary Penalty Inflation Adjustment Rule issued in February 2004 authorizes a civil penalty of up to THIRTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$32,500) for violations that occur after March 15, 2004. 69 Fed. Reg. 7121 (Feb. 13, 2004). Based upon the facts alleged herein and upon those factors which EPA must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and the RCRA Civil Penalty Policy, including the seriousness of the violations, any good faith efforts by Respondent to comply with applicable requirements, and any economic benefit accruing to Respondent, as well as such other matters as justice may require, EPA proposes that Respondent be assessed EIGHT THOUSAND DOLLARS (\$8000.00) as the civil penalty for the violations alleged herein. The proposed penalties were calculated in accordance with the "June 2003 RCRA Civil Penalty Policy." Under the penalty policy, EPA uses a penalty assessment matrix to determine a gravity-based penalty. That penalty amount is then adjusted to take into account multi-day violations, the economic benefit gained from non-compliance, where appropriate, and case-specific circumstances.

E. ADMISSIONS AND WAIVERS OF RIGHTS

56. For the purposes of this proceeding, Respondent admits to the jurisdictional allegations set forth in Section B of this CA/FO and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.

57. Respondent neither admits nor denies any allegations of fact or law set forth in Section C of this CA/FO, and this CA/FO and Respondent's compliance with it shall not be construed as an admission by Respondents of any wrongdoing or liability. Notwithstanding the foregoing, Respondent hereby waives any rights Respondent may have to contest the allegations set forth in this CA/FO, waives any rights Respondent may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in this CA/FO, including without limitation a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and hereby consents to the issuance of this CA/FO without adjudication. In addition, Respondent hereby waives any rights Respondent may have to appeal the Final Order attached to this Consent Agreement and made part of this CA/FO.

F. PARTIES BOUND

58. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns, until such time as the civil penalty required under Sections D and G has been paid in accordance with Section G, and any delays in performance and/or stipulated penalties have been resolved. At such time as those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.
59. No change in ownership or corporate, partnership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
60. The undersigned representative of Respondent hereby certifies that he or she is fully authorized by Respondent to enter into this CA/FO, to execute and to legally bind Respondent to it.

G. PAYMENT OF CIVIL PENALTY

61. Respondent consents to the assessment of and agrees to pay a civil penalty of EIGHT THOUSAND DOLLARS (\$8000.00) in full settlement of the federal civil penalty claims set forth in this CA/FO.
62. Respondent shall submit payment of the EIGHT THOUSAND DOLLARS (\$8000.00) within thirty (30) days of the Effective Date of this CA/FO. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. All payments shall indicate the name of the Facility, EPA identification number of the Facility, the Respondent's name and address, and the EPA docket number of this action. Payment shall be made by certified or cashier's check payable to "Treasurer of the United States" and sent to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000.

At the time payment is made, a copy of the check shall be sent to:

Steven Armsey
Acting Regional Hearing Clerk (RC-1)
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105

and

Clint Seiter (WST-3)
Waste Management Division
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105.

In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), each payment must be received by the due date set forth in this CA/FO to avoid additional charges. If payment is not received by the due date, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. § 13.11. A late penalty charge of \$15.00 will be imposed after thirty (30) calendar days with an additional \$15.00 charge for each subsequent 30-day period. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) calendar days of its due date. Respondent further will be liable for stipulated penalties as set forth below for any payment not received by its due date.

H. DELAY IN PERFORMANCE/STIPULATED PENALTIES

63. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as set forth below:

For failure to submit a payment to EPA by the time required in this CA/FO: ONE HUNDRED DOLLARS (\$100) per day for first to fifteenth day of delay, FIVE HUNDRED DOLLARS (\$500) per day for sixteenth to thirtieth day of delay, and ONE THOUSAND DOLLARS (\$1,000) per day for each day of delay thereafter.

64. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. §13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.
65. All penalties shall be made payable by certified or cashier's check to "Treasurer of the United States" and shall be remitted as described in Paragraph 62.

66. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete the performance required hereunder.
67. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this CA/FO.

I. CERTIFICATION OF COMPLIANCE

68. By signing this consent agreement, Respondent certifies under penalty of law to EPA that the Respondent has, to the best of its knowledge and belief, fully complied with RCRA Hazardous Waste Management requirements, 42 U.S.C. §§ 6921-6939e, and the federally authorized California hazardous waste management program, including the requirements that formed the basis for the violations alleged in this CA/FO. This certification of compliance is based upon true, accurate, and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.
69. At the time of the final payment required above in Paragraph 80, Respondent will certify to EPA that to the best of its knowledge and belief it is in compliance with RCRA Hazardous Waste Management requirements, 42 U.S.C. §§ 6921-6939e, and the federally authorized California hazardous waste management program, which formed the basis for the violations alleged in this CA/FO. The certification may be submitted in the form of a letter to Clint Seiter, at the address set out above in Paragraph 62.

J. RESERVATION OF RIGHTS

70. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO, except as to those civil penalties for the violations and facts alleged herein. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c). This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA (except as to those civil penalties for the violations and facts alleged herein); the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"); or any other statutory, regulatory or common law enforcement authority of the United States.
71. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, State or federal laws and regulations.
72. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that

such actions are warranted except as they relate to Respondent's liability for federal civil penalties for the specific alleged violations and facts as set forth in Section C of this CA/FO.

73. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, State or federal permits.

K. OTHER CLAIMS

74. Nothing in this CA/FO shall constitute or be construed as a release from nor an admission by Respondents of any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

L. MISCELLANEOUS

75. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
76. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
77. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed by the Regional Hearing Clerk.

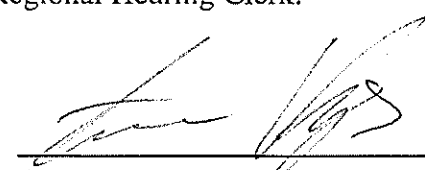
IT IS SO AGREED.

9-25-09

Date

102809

Date



Teresa Venegas
President
Art Craft Paint, Inc.



Jeff Scott, Director
Waste Management Division
U.S. Environmental Protection Agency, Region 9

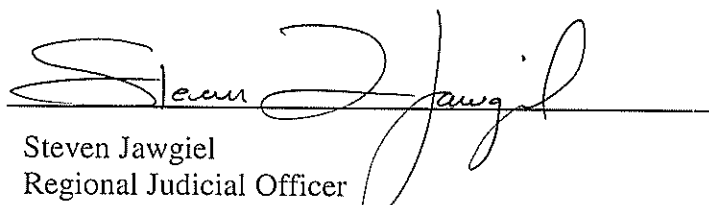
FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA-9 -2010- 0001) be entered and that Art Craft Paint Inc. pay a civil penalty of EIGHT THOUSAND DOLLARS (\$8000.00) as specified in Paragraph 61 of this Consent Agreement and Final Order. Payment must be made pursuant to Section G of the Consent Agreement.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

10/30/09

Date


Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency,
Region 9

CERTIFICATE OF SERVICE

I hereby certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the matter of Art Craft Paint (RCRA-09-2010-0001), with final order dated Oct. 30, 2009, has been filed with the Regional Hearing Clerk, and a copy was served on Respondent, and Counsel for EPA, as indicated below:

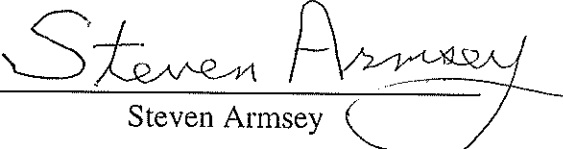
BY FIRST CLASS MAIL:
(With Return Receipt)

Respondent - Ms. Teresa Venegas, Pres.
 Art Craft Paint, Inc.
 3203 Lightning Street (Suite 108)
 Santa Maria, CA 93455

HAND DELIVERED:

Complainant - Michael Hingerty, Esq.
(By Counsel) Office of Regional Counsel
 ENVIRONMENTAL PROTECTION AGENCY
 75 Hawthorne Street
 San Francisco, CA. 94105

Dated at San Francisco, Calif., this 2nd day of November, 2009.


Steven Armsey

For: Danielle Carr
 Regional Hearing Clerk
 EPA, Region 9