



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
July 23, 2021

ELECTRONIC SERVICE
VIA EMAIL

Rich Sobalvarro
Attorney
Parthenon Agency, LLC
11 7th Avenue North, Suite 100
St. Cloud, Minnesota 56303

Re: Crystal Valley Cooperative, Madelia, Minnesota, Consent Agreement and Final Order
Docket No. CERCLA-05-2021-0003

Dear Mr. Sobalvarro:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on July 23, 2021.

Please have your client pay the Comprehensive Environmental Response, Compensation and Liability Act civil penalty in the amount of \$5,262 in the manner prescribed in paragraph 27, and reference your check with the billing document number 2752130B003 and the docket number CERCLA-05-2021-0003.

Your client's payment is due on August 23, 2021.

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Cynthia Kawakami, Associate Regional Counsel, at (312) 886-0564. Thank you for your assistance in resolving this matter.

Sincerely,

ELLEN
RILEY
Digitally signed
by ELLEN RILEY
Date: 2021.07.22
15:39:32 -05'00'
Michael E. Hans, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

cc: Joe Neuberger (w/ enclosure)
Division of Homeland Security
and Emergency Management
445 Minnesota Street, Suite 223
St. Paul, Minnesota 55101
joe.neuberger@state.mn.us

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CERCLA-05-2021-0003
)	
Crystal Valley Cooperative)	Proceeding to Assess a Civil Penalty Under
Madelia, Minnesota,)	Section 109(b) of the Comprehensive
)	Environmental Response, Compensation and
Respondent.)	Liability Act
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Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 109(b) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609(b) 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, by lawful delegation, the Chief of Emergency Response Branch 1, Superfund & Emergency Management Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is Crystal Valley Cooperative, a Minnesota corporation doing business in the State of Minnesota.

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 the terms of the 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.

Statutory and Regulatory Background

9. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center (NRC) as soon as that person has knowledge of any release of a hazardous substance from the facility in an amount equal to or greater than the reportable quantity of the hazardous substance.

10. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), provides a mechanism to alert federal agencies that a response action may be necessary to prevent deaths or injuries to emergency responders, facility personnel and the local community. A delay or failure to notify could seriously hamper the governments' response to an emergency and pose serious threats to human health and the environment.

11. Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), authorizes U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation of CERCLA Section 103. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. No. 114-74, § 701, 129 Stat. 584, 599 (2015), amending 28 U.S.C. § 2461 note, and the implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty to \$59,017 per day of violation for each

day that occurred after November 2, 2015, and for which penalties are assessed on or after December 23, 2020.

Factual Allegations and Alleged Violations

12. Respondent is a “person” as that term is defined under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

13. At all times relevant to this CAFO, Respondent was in charge of the facility located at Section 14, South Branch Farm Township, South Branch, Minnesota (facility).

14. Respondent’s facility consists of a storage container, motor vehicle, rolling stock, or any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located.

15. Respondent’s facility is a “facility” as that term is defined under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

16. Anhydrous Ammonia (CAS #7664-41-7) is a “hazardous substance” as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

17. Anhydrous ammonia (CAS #7664-41-7) has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 302, Table 302.4.

18. On November 8, 2020, at or about 1:45 p.m., Central Time, a release occurred from Respondent’s facility of approximately 1,200 pounds of anhydrous ammonia (the release).

19. In a 24-hour time period, the release of anhydrous ammonia exceeded 100 pounds.

20. During the release, approximately 1,200 pounds of anhydrous ammonia leaked, discharged, or escaped into the ambient air.

21. The release is a “release” as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

22. Respondent had knowledge of the release on November 8, 2020, at approximately 1:45 p.m., Central Time.

23. Respondent notified the NRC of the release on November 8, 2020, at 3:43 p.m., Central Time.

24. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the release.

25. Respondent's failure to immediately notify the NRC of the release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

Civil Penalty

26. Complainant has determined that an appropriate civil penalty to settle this action is \$5,262 for the CERCLA violation. In determining the penalty amount, Complainant considered the nature, circumstances, extent, and gravity of the violation, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violation and any other matters as justice may require. Complainant also considered U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

27. Within 30 days after the effective date of this CAFO, Respondent must pay a \$5,262 civil penalty for the CERCLA violation. Respondent must pay the penalty by an ACH electronic funds transfer, payable to "EPA Hazardous Substance Superfund," and sent to:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22-checking

In the comment area of the ACH electronic funds transfer, state the following: Crystal Valley Cooperative, Madelia, Minnesota, the docket number of this CAFO CERCLA-05-2021-0003 and the billing document number 2752130B003.

28. A transmittal letter, stating Respondent's name, the case name, Respondent's complete address, the case docket number, the billing document number, and information regarding the completed electronic payment must be sent to the individual as follows:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3511

With copies to:

James Entzminger (SE-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Cynthia Kawakami (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

30. If Respondent does not timely pay the civil penalty, 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 enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

31. 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, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

32. The parties' consent to service of this CAFO by email at the following valid email addresses: kawakami.cynthia@epa.gov (for Complainant) and rsobalvarro@parthenonagency.com (for Respondent).

33. Full payment of the penalty and compliance with this CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

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

35. Respondent certifies that it is complying with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

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

37. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

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

39. Each person signing this consent 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.

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

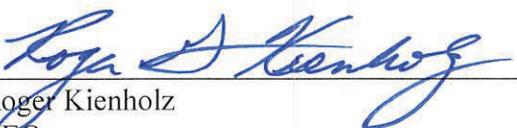
41. This CAFO constitutes the entire agreement between the parties.

In the Matter of: Crystal Valley Cooperative, Madelia, Minnesota
Docket No. CERCLA-05-2021-0003

Crystal Valley Cooperative, Respondent

7-12-2021

Date



Roger Kienholz
CEO
Crystal Valley Cooperative

U.S. Environmental Protection Agency, Complainant

7-23-2021

Date

Jason El-
Zein  Digitally signed by
Jason El-Zein
Date: 2021.07.23
08:44:25 -04'00'

Jason El-Zein
Chief, Emergency Response Branch 1
Superfund & Emergency Management Division
U.S. Environmental Protection Agency
Region 5

7-23-2021

Date

Jason El-
Zein  Digitally signed by
Jason El-Zein
Date: 2021.07.23
14:05:28 -04'00' for

Douglas Ballotti
Director
Superfund & Emergency Management Division
U.S. Environmental Protection Agency
Region 5

In the Matter of: Crystal Valley Cooperative, Madelia, Minnesota
Docket No. CERCLA-05-2021-0003

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.

**ANN
COYLE**

Digitally signed by
ANN COYLE
Date: 2021.07.23
14:32:53 -05'00'

Date

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

In the Matter of: Crystal Valley Cooperative, Madelia, Minnesota
Docket No. CERCLA-05-2021-0003

Certificate of Service

I certify that I sent a true and correct copy of the foregoing Consent Agreement and Final Order, which was filed on July 23, 2021 in the following manner to the addressees:

Copy by E-Mail to

Attorney for Respondent: Rich Sobalvarro
Attorney
Parthenon Agency, LLC
11 7th Avenue North, Suite 100
St. Cloud, Minnesota 56303
rsobalvarro@parthenonagency.com

Copy by E-mail to

Attorney for Complainant: Cynthia Kawakami
kawakami.cynthia@epa.gov

Copy by E-mail to

Regional Judicial Officer: Ann Coyle
Coyle.ann@epa.gov

Dated: _____

LADAWN
WHITEHEAD

Digitally signed by LADAWN
WHITEHEAD
Date: 2021.07.23 15:28:07
-05'00'

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5