



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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September 3, 2020
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Received by
EPA Region VIII
Hearing Clerk

DOCKET NO.: CAA-08-2020-0010

IN THE MATTER OF:)
)
K2D, INC.,)
DBA COLORADO PREMIUM COLD STORAGE))
)
)
)
RESPONDENT)

FINAL ORDER

Pursuant to 40 C.F.R. § 22.13(b) and §§ 22.18(b)(2) and (3) of EPA’s Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon filing this Consent Agreement and Final Order.

SO ORDERED THIS 3RD DAY OF SEPTEMBER, 2020.

KATHERIN HALL
Digitally signed by KATHERIN HALL
Date: 2020.09.03 12:50:53 -06'00'

Katherin E. Hall
Regional Judicial Officer

September 3, 2020

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Received by

EPA Region VIII

Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:)

K2D, Inc.,)
DBA Colorado Premium Cold Storage)
2035 2nd Avenue)
Greeley, Colorado 80631,)

Respondent.)

) Docket No. CAA-08-2020-0010

) CONSENT AGREEMENT

I. INTRODUCTION

1. This is an administrative penalty assessment proceeding pursuant to sections 22.13 and 22.18 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules of Practice), as codified at 40 C.F.R. part 22.
2. K2D, Inc., doing business as Colorado Premium Cold Storage (Respondent), owns and/or operates the Colorado Premium Cold Storage Facility (Facility), a stationary source located at 5120 Race Court, Denver, Colorado 80216.
3. The EPA and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this consent agreement (Agreement) without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this Agreement.

II. JURISDICTION

4. This Agreement is issued under the authority vested in the Administrator of the EPA by section 113(d) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7413(d). The undersigned EPA official has been duly authorized to institute this action.
5. The EPA and the United States Department of Justice have jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding is appropriate for an administrative penalty assessment, as authorized by section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), 40 C.F.R. § 19.4.
6. The Regional Judicial Officer is authorized to approve this Agreement with a final order. 40 C.F.R. §§ 22.4(b) and 22.18(b).
7. The final order approving this Agreement simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

III. GOVERNING LAW

8. The Administrator is authorized to promulgate regulations regarding the prevention and detection of accidental releases of certain regulated substances under section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). The Administrator is required to promulgate regulations requiring the owners or operators of stationary sources where a regulated substance is present above a threshold quantity to prepare a risk management plan (RMP) to prevent or minimize risks of accidental releases of those regulated substances under section 112(r)(7)(B) of the CAA, 42 U.S.C. § 7412(r)(7)(B). The regulations, promulgated by the EPA pursuant to CAA section 112(r)(7), are set forth in 40 C.F.R. part 68.
9. The following definitions apply under 40 C.F.R. § 68.3:
 - a. “Stationary source” means “any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control) and from which an accidental release may occur.”
 - b. “Regulated substance” means “any substance (listed pursuant to section 112(r)(3) of the CAA) in 40 C.F.R. § 68.130.” Threshold quantities for the regulated substances are included in 40 C.F.R. § 68.130.

IV. ALLEGED FACTS

10. Respondent is a Colorado corporation, and therefore a person, and thus subject to regulation under section 112 of the CAA, 42 U.S.C. § 7412.
11. Respondent is the owner and/or operator of a meat processing facility, a stationary source, located at 5120 Race Court, Denver, Colorado 80216 (Facility).
12. The Facility uses, handles, and/or stores more than a threshold quantity of anhydrous ammonia, which is a regulated substance, listed under 40 C.F.R. § 68.130.
13. Respondent is required to prepare and implement a RMP to detect and prevent or minimize accidental releases of such substances under section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).
14. Respondent meets the Program 3 eligibility requirements under 40 C.F.R. § 68.10.
15. Ammonia presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. In light of the potential hazards posed by the mishandling of anhydrous ammonia, industry trade associations have issued standards outlining the recognized and generally accepted good engineering practices (RAGAGEP) in the ammonia refrigeration industry. In collaboration with the American National Standards Institute, the International Institute of Ammonia Refrigeration (IIAR) has issued (and updates) applicable standards and guidance. These standards are consistently relied upon by refrigeration experts and are often incorporated into state building and mechanical codes.

16. On August 27, 2018, an authorized representative of the EPA conducted an inspection of the Facility, with the consent of Respondent, to determine compliance with CAA section 112(r)(7). During that inspection, the EPA representative observed alleged violations of the CAA section 112(r)(7). The alleged violations are described in Paragraphs 18-38.
17. The EPA and Respondent entered into an Administrative Compliance Order on Consent (AOC) pursuant to CAA Sections 113 and 114, 42 U.S.C. §§ 7413 and 7414, which became effective on February 12, 2020. The AOC summarized outstanding RMP deficiencies and potentially dangerous conditions observed by the EPA representative; ordered Respondent to comply with RMP requirements at the Facility; and ordered Respondent to certify and document it had corrected the RMP deficiencies outlined in the AOC. The EPA has received a notification of completion from Respondent certifying that Respondent has corrected the RMP deficiencies outlined in the AOC.

V. ALLEGED VIOLATIONS OF LAW

18. 40 C.F.R. § 68.65(c)(1)(iii) provides that the owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule, and shall keep process safety information up-to-date. The compilation of written process safety information is to enable the owner or operator and the employees involved in operating the process to identify and understand the hazards posed by those processes involving regulated substances. This process safety information shall include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process. Information pertaining to the technology of the process shall include maximum intended inventory. Respondent's process safety information did not include an accurate maximum intended inventory for the ammonia refrigeration system at the Facility. By failing to include an accurate maximum intended inventory for the ammonia refrigeration system at the Facility in the process safety information, Respondent violated 40 C.F.R. § 68.65(c)(1)(iii).
19. 40 C.F.R. § 68.65(c)(1)(iv) provides that the owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule, and shall keep process safety information up-to-date. The compilation of written process safety information is to enable the owner or operator and the employees involved in operating the process to identify and understand the hazards posed by those processes involving regulated substances. This process safety information shall include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process. Information pertaining to the technology of the process shall include safe upper and lower limits for such items as temperatures, pressures, flows or compositions. Respondent's process safety information did not include safe upper and lower limits for such items as temperatures, pressures, flows, or compositions for the ammonia refrigeration system at the Facility. By failing to include safe upper and lower limits for such items as temperatures, pressures, flows, or compositions for the ammonia refrigeration system at the Facility in the process safety information, Respondent violated 40 C.F.R. § 68.65(c)(1)(iv).
20. 40 C.F.R. § 68.65(c)(1)(v) provides that the owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule, and shall keep process safety information up-to-date. The compilation of written process safety

information is to enable the owner or operator and the employees involved in operating the process to identify and understand the hazards posed by those processes involving regulated substances. This process safety information shall include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process. Information pertaining to the technology of the process shall include an evaluation of the consequences of deviations. Respondent's process safety information did not include an evaluation of the consequences of deviations for the ammonia refrigeration system at the Facility. By failing to include an evaluation of the consequences of deviations for the ammonia refrigeration system at the Facility in the process safety information, Respondent violated 40 C.F.R. § 68.65(c)(1)(v).

21. 40 C.F.R. § 68.65(d)(1)(iii) provides that the owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule, and shall keep process safety information up-to-date. The compilation of written process safety information is to enable the owner or operator and the employees involved in operating the process to identify and understand the hazards posed by those processes involving regulated substances. This process safety information shall include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process. Information pertaining to the equipment in the process shall include electrical classification. Respondent's process safety information did not include electrical classification for the ammonia refrigeration system at the Facility. By failing to include electrical classification for the ammonia refrigeration system at the Facility in the process safety information, Respondent violated 40 C.F.R. § 68.65(d)(1)(iii).
22. 40 C.F.R. § 68.65(d)(1)(iv) provides that the owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule, and shall keep process safety information up-to-date. The compilation of written process safety information is to enable the owner or operator and the employees involved in operating the process to identify and understand the hazards posed by those processes involving regulated substances. This process safety information shall include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process. Information pertaining to the equipment in the process shall include relief system design and design basis. Respondent's process safety information did not include appropriate relief system design and design basis for the ammonia refrigeration system at the Facility. By failing to include appropriate relief system design and design basis for the ammonia refrigeration system at the Facility in the process safety information, Respondent violated 40 C.F.R. § 68.65(d)(1)(iv).
23. 40 C.F.R. § 68.65(d)(1)(vi) provides that the owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule, and shall keep process safety information up-to-date. The compilation of written process safety information is to enable the owner or operator and the employees involved in operating the process to identify and understand the hazards posed by those processes involving regulated substances. This process safety information shall include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process. Information pertaining to the equipment in the process shall include design codes and standards employed. Respondent's process safety

information did not include design codes and standards employed for the ammonia refrigeration system at the Facility. By failing to include design codes and standards employed for the ammonia refrigeration system at the Facility in the process safety information, Respondent violated 40 C.F.R. § 68.65(d)(1)(vi).

24. 40 C.F.R. § 68.65(d)(2) provides that the owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices. Respondent did not provide directions for the emergency shutdown of the ammonia refrigeration system at the Facility at a location that is readily accessible to trained refrigeration system staff and trained emergency responders in accordance with Section 5.15 of ANSI/IIAR 2-2014, Standard for Safe Design of Closed-Circuit Ammonia Refrigeration Systems. By not providing directions for the emergency shutdown of the ammonia refrigeration system at the Facility in accordance with ANSI/IIAR 2-2014, Respondent did not comply with recognized and generally accepted good engineering practices and violated 40 C.F.R. § 68.65(d)(2).
25. 40 C.F.R. § 68.65(d)(2) provides that the owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices. Respondent's structural supports for foundations, piping, tubing, and equipment for the ammonia refrigeration system at the Facility did not meet the noncombustible requirements in accordance with Section 5.11.2 of ANSI/IIAR 2-2014, Standard for Safe Design of Closed-Circuit Ammonia Refrigeration Systems. By not meeting the noncombustible requirements for the structural supports for foundations, piping, tubing, and equipment for the ammonia refrigeration system at the Facility in accordance with ANSI/IIAR 2-2014, Respondent did not comply with recognized and generally accepted good engineering practices and violated 40 C.F.R. § 68.65(d)(2).
26. 40 C.F.R. § 68.65(d)(2) provides that the owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices. Respondent's piping to the evaporators and piping on the roof for the ammonia refrigeration system at the Facility was not labeled in accordance with Section 5.14.5 of ANSI/IIAR 2-2014, Standard for Safe Design of Closed-Circuit Ammonia Refrigeration Systems. By not labeling piping for the ammonia refrigeration system at the Facility in accordance with ANSI/IIAR 2-2014, Respondent did not comply with recognized and generally accepted good engineering practices and violated 40 C.F.R. § 68.65(d)(2).
27. 40 C.F.R. § 68.65(d)(2) provides that the owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices. Respondent's access to valves for the ammonia refrigeration system at the Facility did not meet the requirements in accordance with Section 6.3.3 of ANSI/IIAR 2-2014, Standard for Safe Design of Closed-Circuit Ammonia Refrigeration Systems. By not meeting the requirements for access to valves for the ammonia refrigeration system at the Facility in accordance with ANSI/IIAR 2-2014, Respondent did not comply with recognized and generally accepted good engineering practices and violated 40 C.F.R. § 68.65(d)(2).
28. 40 C.F.R. § 68.65(d)(2) provides that the owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices. Respondent's east exit door of the machinery room for the ammonia refrigeration system at the Facility did not have panic hardware in accordance with Section 6.10.2 of ANSI/IIAR 2-2014, Standard for Safe Design of

Closed-Circuit Ammonia Refrigeration Systems. By not having panic hardware on the east exit door of the machinery room for the ammonia refrigeration system at the Facility in accordance with ANSI/IIAR 2-2014, Respondent did not comply with recognized and generally accepted good engineering practices and violated 40 C.F.R. § 68.65(d)(2).

29. 40 C.F.R. § 68.65(d)(2) provides that the owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices. Respondent's emergency ventilation in the machinery room for the ammonia refrigeration system at the Facility did not provide at least 30 air changes per hour in accordance with Section 6.14.7.1 of ANSI/IIAR 2-2014, Standard for Safe Design of Closed-Circuit Ammonia Refrigeration Systems. By not having emergency ventilation in the machinery room for the ammonia refrigeration system at the Facility in accordance with ANSI/IIAR 2-2014, Respondent did not comply with recognized and generally accepted good engineering practices and violated 40 C.F.R. § 68.65(d)(2).
30. 40 C.F.R. § 68.65(d)(3) provides that for existing equipment designed and constructed in accordance with codes, standards, or practices that are no longer in general use, the owner or operator shall determine and document that the equipment is designed, maintained, inspected, tested, and operating in a safe manner. Respondent did not determine and document that two rotary vane compressors located in the machinery room for the ammonia refrigeration system at the Facility were designed, maintained, inspected, tested, and operating in a safe manner. By not determining and documenting that the two rotary vane compressors were designed, maintained, inspected, tested, and operating in a safe manner, Respondent violated 40 C.F.R. § 68.65(d)(3).
31. 40 C.F.R. § 68.67(e) provides that the owner or operator shall establish a system to promptly address the team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions. Respondent conducted a PHA in 2014 but did not address the findings of the PHA until May of 2017. By not establishing a system to promptly address the team's findings and recommendations from the 2014 PHA recommendations, Respondent violated 40 C.F.R. § 68.67(e).
32. 40 C.F.R. § 68.69(a)(2) provides that the owner or operator shall develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information and shall address consequences of deviation and steps required to correct or avoid deviation of operating limits. Respondent's operating procedures did not address consequences of deviation and steps required to correct or avoid deviation of operating limits. By not addressing consequences of deviation and steps required to correct or avoid deviation of operating limits, Respondent violated 40 C.F.R. § 68.69(a)(2).
33. 40 C.F.R. § 68.69(c) provides that the operating procedures shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to stationary sources. The owner or operator shall certify annually that these operating procedures are current and accurate. Respondent did not certify that operating procedures were current and accurate prior to 2017. By not certifying

annually that operating procedures were current and accurate, Respondent violated 40 C.F.R. § 68.69(c).

34. 40 C.F.R. § 68.73(d)(3) provides that the frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience. Respondent's pressure relief devices for the ammonia refrigeration system at the Facility were replaced in 2010 and in 2016, exceeding the 5-year replacement/recertification schedule in accordance with Section 6.6.3 of IIAR Bulletin 110, Guidelines for Start-up, Inspection and Maintenance of Ammonia Mechanical Refrigerating Systems. By not replacing or recertifying pressure-relief devices for the ammonia refrigeration system at the Facility in accordance with IIAR Bulletin 110, Respondent did not ensure that the frequency of inspections and tests of process equipment was consistent with applicable manufacturers' recommendations and good engineering practices and violated 40 C.F.R. § 68.73(d)(3).
35. 40 C.F.R. § 68.73(d)(4) provides that the owner or operator shall document each inspection and test that has been performed on process equipment. The documentation shall identify the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test. Respondent's annual inspection/testing records for the pressure vessels in the ammonia refrigeration system at the Facility were not available prior to 2016. By not documenting each inspection and test that has been performed on process equipment, Respondent violated 40 C.F.R. § 68.73(d)(4).
36. 40 C.F.R. § 68.75(a) provides that the owner or operator shall establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, and procedures; and, changes to stationary sources that affect a covered process. Respondent initiated a change to Compressor #4 on August 1, 2016. This change consisted of replacing Compressor #4, a rotary compressor, with a screw compressor. However, on the associated MOC form dated July 17, 2017, Respondent stated that the change was a "replacement in kind" and that "No further MOC action is required for this change." By not implementing written procedures to manage changes to process chemicals, technology, equipment, and procedures; and, changes to stationary sources that affect a covered process, Respondent violated 40 C.F.R. § 68.75(a).
37. 40 C.F.R. § 68.79(a) provides that the owner or operator shall certify that they have evaluated compliance with the provisions of this subpart (Subpart D) at least every three years to verify that procedures and practices developed under this subpart are adequate and are being followed. Respondent did not evaluate compliance with the provisions of Subpart D between the years 2012 and 2019. By not evaluating compliance with the provisions of Subpart D at least every three years, Respondent violated 40 C.F.R. § 68.79(a).
38. 40 C.F.R. § 68.195(b) provides that beginning June 21, 2004, within one month of any change in the emergency contact information required under §68.160(b)(6), the owner or operator shall submit a correction of that information. Respondent's emergency contact 24-hour phone number and the emergency contact email address changed in May of 2017, but the correction of that information was not submitted until February 27, 2019. By not submitting a correction of the emergency contact information within one month of any change, Respondent violated 40 C.F.R. § 68.195(b).

VI. TERMS OF CONSENT AGREEMENT

39. For the purpose of this proceeding, Respondent:
- a. admits the jurisdictional allegations in section II of this Agreement;
 - b. neither admits nor denies the factual allegations stated in section IV of this Agreement;
 - c. consents to the assessment of a civil penalty as stated below;
 - d. acknowledges that this Agreement constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
 - e. waives any and all available rights to judicial or administrative review or other remedies that Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this Consent Agreement, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701–706; and
 - f. waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the Agreement or Order, or both, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.
40. Section 113(d)(1)(B) of the Act, 42 U.S.C. § 7413(d)(1)(B), and 40 C.F.R. part 19 authorize EPA to assess a civil penalty in this matter.
41. In determining the amount of the penalty to be assessed, EPA considered the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation, and other such factors as justice may require, in accordance with section 113(e) of the CAA, 42 U.S.C. § 7413(e).
42. EPA has determined that a civil penalty of \$156,081 is appropriate to settle this matter.
43. Penalty Payment. Respondent agrees to:
- a. pay a civil penalty in the amount of \$156,081 within 30 calendar days of the Effective Date of this Agreement;
 - b. pay the civil penalty using any method provided on the following website <https://www.epa.gov/financial/makepayment>;
 - c. identify each and every payment with the docket number that appears on the final order; and
 - d. within 24 hours of payment, email proof of payment to Steven A. Ramirez and Shaula Eakins at ramirez.stevena@epa.gov and eakins.shaula@epa.gov ("proof of payment" means, as applicable,

a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the docket number that appears on the final order).

44. If Respondent fails to timely pay any portion of the penalty assessed under this Agreement, EPA may:
- a. request the Attorney General to bring a civil action in an appropriate district court to recover: the amount assessed; interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses; and a 10% quarterly nonpayment penalty, 42 U.S.C. § 7413(d)(5);
 - b. refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5)”, 40 C.F.R. §§ 13.13, 13.14, and 13.33;
 - c. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. part 13, subparts C and H; and
 - d. suspend or revoke Respondents' licenses or other privileges or suspend or disqualify Respondents from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.
45. Consistent with section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), the Respondent will not deduct penalties paid under this Agreement for federal tax purposes.
46. This Agreement applies to Respondent and its officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns. Respondent must give written notice and a copy of this Agreement to any successors-in-interest prior to transfer of any interest in the Colorado Premium Cold Storage Facility. Any change in ownership or corporate status of Respondent, including but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Agreement.
47. The undersigned representative of Respondent certifies that he or she is fully authorized to execute and enter into the terms and conditions of this Agreement and has the legal capacity to bind the party he or she represents to this Agreement.
48. Except as qualified by paragraph 44, each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

VII. EFFECT OF CONSENT AGREEMENT

49. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Agreement resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

50. The terms, conditions, and compliance requirements of this Agreement may not be modified or amended except upon the written agreement of both parties, and approval of the Environmental Appeals Board/ Regional Judicial Officer, or other Delegatee.
51. Any violation of this Agreement, and subsequently issued final order approving this Agreement, may result in a civil judicial action for an injunction or civil penalties of up to \$48,192 per day per violation, or both, as provided in section 113(d)(1)(B) of the Act, 42 U.S.C. § 7413(d)(1)(B), and adjusted for inflation pursuant to 40 C.F.R. part 19, as well as criminal sanctions as provided in section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this Agreement in an administrative, civil judicial, or criminal action.
52. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
53. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
54. If and to the extent that EPA finds, after signing this Agreement, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA, EPA reserves any and all of its legal and equitable rights.

VIII. EFFECTIVE DATE

55. This Agreement shall become effective on the date the Final Order is filed by the hearing clerk.

Consent Agreement In the Matter of K2D, Inc., DBA Colorado Premium Cold Storage

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

Date: _____

By: _____

**SUZANNE
BOHAN**

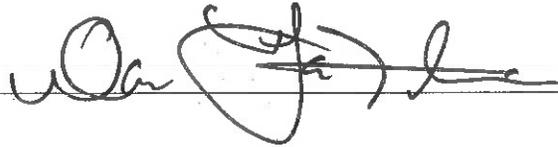
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SUZANNE BOHAN
Date: 2020.09.02 14:24:02
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Suzanne J. Bohan, Director
Enforcement and Compliance Assurance Division
Complainant

K2D, INC. DBA COLORADO PREMIUM COLD STORAGE

Date: 8/31/20

By: _____



Title: _____

E.V.P. OPERATIONS

Respondent

CERTIFICATE OF SERVICE

The undersigned certifies that the attached **CONSENT AGREEMENT** and the **FINAL ORDER** in the matter of **K2D, INC., DBA COLORADO PREMIUM COLD STORAGE; DOCKET NO.: CAA-08-2020-0010** was filed with the Regional Hearing Clerk on September 3, 2020.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Shaula Eakins, Enforcement Attorney, and sent via certified receipt email on September 3, 2020, to:

Respondent

K2D, Inc., DBA Colorado Premium Cold Storage
Seth Smith: seth.smith@coloradopremium.com
Steve Mark: steve.mark@coloradopremium.com

Legal Representation

Nancy J. Rich
Katten Muchin Rosenman LLP
nancy.rich@katten.com

EPA Financial Center

Jessica Chalifoux
U. S. Environmental Protection Agency
Cincinnati Finance Center
Chalifoux.Jessica@epa.gov

September 3, 2020

MELISSA HANIEWICZ
Digitally signed by
MELISSA HANIEWICZ
Date: 2020.09.03
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Melissa Haniewicz
Regional Hearing Clerk