



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2013 SEP 26 PM 2:55

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: RCRA-08-2013-0002

IN THE MATTER OF:

JORE CORPORATION
Ronan, MT 59846

RESPONDENT

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FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b) and 22.18, 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 receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 26th DAY OF September, 2013.

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Docket No. RCRA-08-2013-0002

IN THE MATTER OF:

Jore Corporation
Ronan, MT 59846

Respondent.

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**COMBINED COMPLAINT AND
CONSENT AGREEMENT**

Complainant, United States Environmental Protection Agency Region 8 (EPA or Complainant), and Respondent, Jore Corporation (Respondent), by their undersigned representatives, hereby consent and agree as follows.

I. PRELIMINARY STATEMENT

1. This matter is subject to 40 C.F.R. Part 22. This Combined Complaint and Consent Agreement (Consent Agreement) is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and pursuant to 40 C.F.R. § 22.18(b)(2) and (3).
2. EPA has jurisdiction over this matter pursuant to section 3008 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (Act or RCRA), 42 U.S.C. § 6928.
3. Respondent admits the jurisdictional allegations contained herein and neither admits nor denies EPA's specific factual allegations or legal conclusions contained herein.

4. Respondent waives its rights to a hearing before any tribunal to contest any issue of law or fact set forth in this Consent Agreement, including in any proceeding to enforce this Consent Agreement.
5. Complainant has concluded that settlement of this matter is in the public interest, and Complainant and Respondent agree that entry of this Consent Agreement and its incorporation into a final order without further litigation and without adjudication of any issue of fact or law will avoid prolonged and potentially complicated litigation between the parties.
6. Upon incorporation into a final order by the EPA Regional Judicial Officer (Final Order), this Consent Agreement applies to and is binding upon Complainant and upon Respondent, and Respondent's officers, directors, agents, successors and assigns. Any change in ownership of, or corporate organization, structure or 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 Consent Agreement, unless EPA, Respondent and the transferee agree in writing to allow the transferee to assume such responsibilities.
7. Respondent shall notify EPA at the address specified below thirty (30) days prior to any transfer described in or contemplated under the paragraph immediately above.
8. This Consent Agreement contains all civil penalty settlement terms agreed to by the parties regarding the allegations made herein.

II. ALLEGATIONS AND VIOLATIONS

9. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
10. Respondent operates a facility located at 45000 Highway 93 South, Ronan, Montana (Facility). The Facility is located within the exterior boundaries of the Flathead Indian Reservation. The Facility mailing address is 34837 Innovation Drive, Ronan, Montana 59864.
11. Jore Corporation manufactures drill bits and power tool accessories at the Facility.
12. Respondent first notified as a conditionally exempt small quantity generator of hazardous waste on June 25, 1998, and was assigned the EPA Facility Identification Number MTR000006338.
13. On or about August 30, 2012, an EPA representative conducted a RCRA Compliance Evaluation Inspection (CEI) at the Facility.
14. During the CEI the EPA representative observed, among other things, that Respondent had failed to make hazardous waste determinations on a number of wastes stored at the Facility, consisting of 100 full and partially full drums of unknown contents.
15. Subsequently it was determined that three drums were corrosive hazardous waste (D002), waste hydrochloric acid solution, which drums were disposed of in December 2012, to a permitted hazardous waste disposal facility.
16. Also during the CEI, the EPA representative observed that Respondent had failed to respond to releases of oils to soils and water.

17. At the close of the CEI, the EPA representative requested that Respondent submit certain information and discussed steps Respondent could take immediately to better manage Respondent's solid waste. Respondent subsequently submitted the requested information to EPA and confirmed that improved solid waste management practices were being implemented at the Facility.
18. Pursuant to 40 C.F.R. § 262.11 each person who generates a solid waste shall determine if that waste is a hazardous waste.
19. On or about August 30, 2012, Respondent had not made a hazardous waste determination on the solid wastes listed in paragraph 14 above.
20. Respondent's failure to make a hazardous waste determination is a violation of 40 C.F.R. § 262.11.
21. Pursuant to 42 C.F.R. § 279.20, a used oil generator is any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.
22. Pursuant to 40 C.F.R. § 279.22(d), upon detection of a release of used oil to the environment, a generator must stop the release, contain the released used oil, clean up and manage properly the released used oil and other materials.
23. Respondent's failure to respond to releases of used oil is a violation of 40 C.F.R. § 279.22(d).
24. Respondent now is addressing releases of used oil at and from the Facility pursuant to the terms of administrative order on consent issued pursuant to section 7003 of RCRA, 42 U.S.C. § 6973.

III. CIVIL PENALTY

25. Pursuant to sections 3008(a)(3) and 3008(g) of the Act, 42 U.S.C. §§ 6928(a)(3) and (g), and after consideration of the facts of this case as they relate to the factors set forth in section 3008(a)(3) of the Act, and in consideration of the *RCRA Civil Penalty Policy*, EPA has determined that a civil penalty of eight thousand nine hundred and sixty dollars (\$ 8,960.00) is appropriate to settle this matter.

26. Respondent consents and agrees to pay a civil penalty in the amount of eight thousand nine hundred and sixty dollars (\$ 8,960.00) in the manner described below.

27. Payment by Respondent of the full penalty amount is due within thirty (30) calendar days of Respondent's receipt of the Final Order issued by the EPA Regional Judicial Officer adopting this Consent Agreement. If the due date for payment falls on a weekend or legal federal holiday, the due date is the next business day. Payment must be received by 11:00 a.m. Eastern Time to be considered received that day.

28. Payment shall be made by one of the following methods.

Payment by check. A regular, cashier's or certified check, including the name and docket number of this case, for eight thousand nine hundred and sixty dollars (\$ 8,960.00), payable to "Treasurer, United States of America," mailed to:

Regular Mail

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

Overnight Mail

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Payment by Wire Transfer: Wire transfers should be directed to the Federal Reserve Bank of New York with the following information:

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

Payment Online: This option is available through the Department of Treasury, at www.pay.gov.

Enter sfo 1.1 in the search field. Open the form and complete the required fields.

29. A copy of the check or record of payment if made by other means shall be sent simultaneously with payment to:

Linda Jacobson, 8ENF-RC
US EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
jacobson.linda@epa.gov

and

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202-1129

30. In the event payment is not received by the specified due date, interest accrues from the date of the Final Order, not the due date (on the first late day, 30 days of interest will have accrued), at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received.

31. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the due date of any payment, and for each subsequent thirty-day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date. Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.

32. Respondent agrees that the penalty never shall be claimed as a federal or other tax deduction or credit.

IV. OTHER TERMS AND CONDITIONS

33. Pursuant to section 3008(a)(1) of the Act, 42 U.S.C. § 6928(a)(1), Respondent shall identify the location and waste type of each of the Safety-Kleen pumpage points and each collection sump and develop and submit for EPA approval a standard operating procedure (SOP) for waste determination for each of these pumpage points and collection sumps. The parameters to be analyzed shall include pH, total metals, organics, and semi-volatiles and shall be analyzed using SW-846 methods. The SOP shall also determine if the wastes are wastewater as defined in 40 C.F.R. § 268.2 by determining the total organic carbon and the total suspended solids. Sludge or solids shall be analyzed, if present in the tanks, containers, or sumps as a separate sample.

Following approval of the SOP, Respondent shall sample all points within fifteen (15) calendar days and submit the results to EPA within sixty (60) calendar days.

34. The draft SOP shall be submitted to EPA no later than thirty (30) calendar days after the date of the Final Order. EPA will either approve the SOP or provide written comments on the SOP. Respondent shall have fifteen (15) calendar days to incorporate EPA's comments and resubmit the draft SOP. EPA will either approve the SOP or approve the SOP with additional EPA comments. The version of the SOP approved by EPA shall be incorporated into, and be an enforceable requirement of, the Final Order.

35. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of this Consent Agreement and may result in referral of the matter to the Department of Justice for enforcement of this Consent Agreement and for such other relief as may be appropriate.

36. Nothing in this Consent Agreement shall be construed as a waiver by Complainant of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Consent Agreement.

37. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this Consent Agreement and to execute and legally bind that party to this Consent Agreement.

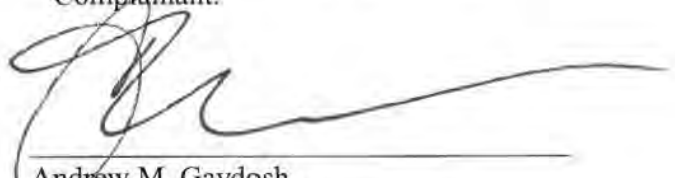
38. This Consent Agreement, upon incorporation into a Final Order and full satisfaction by the parties, shall be a complete, full and final settlement of the civil penalty owed for violations alleged in this Consent Agreement.

39. This Consent Agreement resolves Respondent's liability for Federal civil penalties under sections 3008(a)(3) and 3008(g) of the Act, 42 U.S.C. §§ 6928(a)(3) and (g), for the violations alleged herein.

40. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this Consent Agreement.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY REGION 8
Complainant.

Date: 9/24/13



Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

JORE CORPORATION
Respondent.

Date: 9-3-13

Mick Chuff
Name: Mick Chuff
Title: President

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT, CONSENT AGREEMENT and FINAL ORDER** in the matter **JORE CORPORATION; DOCKET NO.: RCRA-08-2013-0002** was filed with the Regional Hearing Clerk on September 26, 2013.


Further, the undersigned certifies that a true and correct copy of the documents were delivered to, Chuck Figur, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were sent and placed in the United States mail certified/return receipt on September 26, 2013 to:

Mick Cheff, President
Jore Corporation
34837 Innovation Drive
Ronan, MT 59864

And emailed to:

Kim White
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

September 26, 2013


Tina Artemis
Paralegal/Regional Hearing Clerk

