



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

AUG 24 2016

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL NO.: 7009 1680 0000 7647 3194
RETURN RECEIPT REQUESTED

Mr. Sanjeev Bagaria
GDB International, Incorporated
One Home News Row
New Brunswick, New Jersey 08901

Re: Consent Agreement and Final Order
GDB International, Incorporated
Docket No: **RCRA-05-2016-0015**

Dear Mr. Bagaria,

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed on August 24, 2016, with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$ 35,000.00 in the manner prescribed in paragraph 73 of the CAFO, and reference your check with the Docket Number **RCRA-05-2016-0015**.

Your payment is due within 30 calendar days of the effective date of the CAFO. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

Sincerely,

Gary J. Victorine, Chief
RCRA Branch

Enclosures

cc: Todd Marvel, Illinois Environmental Protection Agency w/CAFO (todd.marvel@illinois.gov)

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. RCRA-05-2016-0015
)	
GDB International, Incorporated)	Proceeding to Assess a Civil Penalty
17396 Mockingbird Road - and -)	
12578 Route 127)	Under Section 3008(a) of the Resource
Nashville, Illinois 62263)	Conservation and Recovery Act,
)	42 U.S.C. § 6928(a)
Respondent)	
_____)	



Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), 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, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. On or about December 23, 2015, U.S. EPA provided notice of commencement of this action to the State of Illinois pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Respondent is GDB International, Incorporated (GDB), and a Delaware company doing business in the State of Illinois.

5. 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).

6. 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.

7. 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

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations and the alleged violations in this CAFO.

10. 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.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6992k, and its implementing regulations at 40 C.F.R. Parts 260 - 279.

Statutory and Regulatory Background

12. Pursuant to Sections 3002, 3003, and 3004, of RCRA, 42 U.S.C. §§ 6922, 6923, and 6924, U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators, owners, operators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste.

13. Pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), the treatment, storage or disposal of hazardous waste by any person who has not applied for or received a permit is prohibited. Also see 40 C.F.R. Parts 265 and 270.

14. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

15. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg. 3778 (January 30, 1986).

16. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation of RCRA. Subchapter III, requiring compliance immediately or within a specified period of time, or both.

17. Pursuant to 40 C.F.R. §262.20 and 35 Illinois Administrative Code (IAC) § 722.120, a generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal must prepare a Manifest in accordance with the instructions included in the appendix to 40 CFR Part 262 and 35 IAC Part 722.

18. Pursuant to 40 C.F.R. §262.23(a) and 35 IAC § 722.123(a), a generator must sign the Manifest by hand.

19. Pursuant to 40 C.F.R. §262.34(a) and 35 IAC § 722.134(a), in pertinent part, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or

without having interim status, provided that the generator complies with all applicable conditions set forth in 40 C.F.R. § 262.34(a) and 35 IAC § 722.134(a).

20. A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 C.F.R. Part 265 and 35 IAC Part 725 and the permit requirements of 40 C.F.R. Part 270 and 35 IAC Part 703. Storage for more than 90 days subjects the generator of hazardous waste to the requirement to either obtain a permit or achieve interim status.

21. Similarly, a generator who stores hazardous waste but fails to comply with any of the conditions of 40 C.F.R. § 262.34(a) and 35 IAC § 722.134(a), is subject to the requirements of 40 C.F.R. Part 265 and 35 IAC Part 725 and the permit requirements of 40 C.F.R. Part 270 and 35 IAC Part 703.

22. Pursuant to 40 C.F.R. § 262.41(a) and 35 IAC § 722.141(a), a generator who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must prepare and submit a Report by March 1st, that covers generator activities during the previous year, and includes the information specified in the Section.

23. The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, U.S. EPA and may assess a civil penalty of up to \$37,500 per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

24. Respondent was and is a “person” as defined by Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), 40 C.F.R. § 260.10 and 35 IAC § 720.110.

25. Respondent is an “owner” or “operator,” as those terms are defined under 40 C.F.R. § 260.10 and 35 IAC § 720.110, of two facilities (1) a facility located at 17396 Mockingbird Road, Nashville, Illinois, (Mockingbird Road facility) and (2) a facility located at 12578 Route 127, Nashville, Illinois 62263 (Route 127 facility) (collectively, the Facilities).

26. At all times relevant to this CAFO, Respondent’s Facilities consisted of land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

27. Respondent’s Facilities are individually considered a "facility," as that term is defined under 40 C.F.R. § 260.10 and 35 IAC § 720.110.

28. At all times relevant to this CAFO, Respondent generated waste that was collected and sent off-site for treatment, storage or disposal.

29. Respondent is a “generator,” as that term is defined under 40 C.F.R. § 260.10 and 35 IAC § 720.110.

30. At all times relevant to this CAFO, the Respondent accumulated hazardous waste at the Route 127 facility that was collected and sent off-site for treatment, storage or disposal.

31. At all times relevant to this CAFO, Respondent characterized its waste as ignitable, corrosive, reactive and toxic characteristic hazardous waste (D001, D002, D003, D011 and D035). See 40 C.F.R. Part 261, Subpart C and 35 IAC § 720.110.

32. At all times relevant to this CAFO, Respondent’s waste was “solid waste” as that term is defined under 40 C.F.R. § 261.2 and 35 IAC § 721.102.

33. At all times relevant to this CAFO, Respondent's waste was "hazardous waste" as that term is defined under 40 C.F.R. § 261.3 and 35 IAC § 721.103.

34. At all times relevant to this CAFO, Respondent accumulated ignitable, corrosive, reactive and toxic characteristic hazardous waste (D001, D002, D003, D011 and D035). See 40 C.F.R. Part 261, Subpart C and 35 IAC § 721.120.

35. At all times relevant to this CAFO, Respondent accumulated ignitable, corrosive, reactive and toxic characteristic hazardous waste (D001, D002, D003, D011 and D035), in drums that are considered individually as containers.

36. At all times relevant to this CAFO, Respondent's holding of waste in "containers" constituted hazardous waste "storage," as those terms are defined under 40 C.F.R. § 260.10 and 35 IAC § 720.110.

37. Respondent generated and managed hazardous waste after November 19, 1980, at its Facilities: (1) the Mockingbird Road facility and (2) the Route 127 facility.

38. On or about April 22, 2015 and April 23, 2015, the U.S. EPA conducted a Compliance Evaluation Inspection (CEI) of the Facilities (the inspection).

39. On or about August 19, 2015, the U.S. EPA issued a Notice of Violation to Respondent alleging certain violations as a result of the inspection.

40. On or about September 24, 2015, Respondent submitted to U.S. EPA a written response to the Notice of Violation.

41. At all times relevant to this CAFO, the State of Illinois did not issue a permit to Respondent to treat, store or dispose of hazardous waste at its Facilities, in accordance with Sections 3005 of RCRA, 42 U.S.C. §6925, 40 C.F.R. Part 270 and 35 IAC Part 703.

42. At all times relevant to this CAFO, Respondent did not have interim status for the

treatment, storage, or disposal of hazardous waste at its Facilities, in accordance with Sections 3005 of RCRA, 42 U.S.C. §6925, 40 C.F.R. Parts 265 and 270 and 35 IAC Parts 703 and 725.

43. On or about October 14, 2009, Respondent submitted a Hazardous Waste Notification to U.S. EPA for the Mockingbird Road facility.

44. In this Hazardous Waste Notification, Respondent identified itself as a Large Quantity Generator (LQG) for the Mockingbird Road facility.

45. On or about October 14, 2009, Respondent submitted a Hazardous Waste Notification to U.S. EPA for the Route 127 facility.

46. In this Hazardous Waste Notification, Respondent identified itself as a Large Quantity Generator (LQG) for the Route 127 facility.

47. A LQG is a generator of more than 1000 kg of hazardous waste per month.

48. Therefore, Respondent was required to comply with the applicable requirements of 40 C.F.R. Parts 262 and 265 and 35 IAC Parts 722 and 725.

Personnel Training

49. For a generator of hazardous waste to be exempt from the requirement to have an operating permit or interim status, Respondent must comply with the personnel training requirements of 40 C.F.R. § 265.16 and 35 IAC § 725.116, in accordance with 40 C.F.R. § 262.34 (a) and 35 IAC 722.34(a).

50. At or about the time of the April 22, 2015 and April 23, 2015 Inspection, Respondent had not conducted hazardous waste training for all personnel assigned hazardous waste duties at its Facilities.

51. At or about the time of the April 22, 2015 and April 23, 2015 Inspection,

Respondent failed to maintain all of the records required to document specified hazardous waste training at its Facilities.

Contingency Plan and Emergency Procedures

52. For a generator of hazardous waste to be exempt from the requirement to have an operating permit or interim status, Respondent must prepare and maintain a contingency plan and emergency procedures as required by 40 C.F.R. Part 265, Subpart D and 35 IAC Part 725, Subpart D.

53. At or about the time of the April 22, 2015 and April 23, 2015 Inspection, the contingency plan and emergency procedures prepared and maintained by Respondent for its Facilities did not meet all of the requirements set forth in 40 C.F.R. Part 265, Subpart D and 35 IAC Part 725, Subpart D.

Uniform Hazardous Waste Manifest

54. At or about the time of the April 22, 2015 and April 23, 2015 Inspection, Respondent had not prepared multiple Manifests in accordance with the instructions in the appendix to 40 C.F.R. Part 262 and 35 IAC Part 722. Specifically, Respondent did not: a) use the correct generator Identification Number in Item 1; b) use the correct generator mailing address and site address in Item 5; (c) use the correct units of measure in Item 11; and (d) did not enter a proper signature/certification in Item 15.

Annual Reporting

55. At or about the time of the April 22, 2015 and April 23, 2015 Inspection, Respondent had submitted Annual Reports for its Facilities to the Illinois EPA for the calendar years 2012, 2013 and 2014, which did not meet all of the requirements of 40 C.F.R. § 262.41 and 35 IAC § 711.141. Specifically, the Respondent did not: a) use the correct EPA

Identification Numbers, names, and addresses of the generator; b) use the correct EPA Identification Numbers, names, and addresses for the off-site treatment, storage, or disposal facilities in the United States to which the waste was shipped during the year; c) use the correct EPA Identification Numbers of each transporter used during the reporting year for shipments to a treatment, storage, or disposal facilities within the United States; and d) use the correct descriptions, EPA hazardous waste numbers, DOT hazard class, and quantity of each hazardous waste shipped off-site for shipments to a treatment, storage or disposal facility within the United States listed by EPA identification number.

Count 1

56. Complainant incorporates paragraphs 1 through 55 of this CAFO as though set forth in this paragraph.

57. Respondent's failure to comply with personnel training requirements of 40 C.F.R. § 265.16 and 35 IAC § 725.116 at its Facilities constitutes a failure to satisfy all of the conditions for maintaining its exemption from the requirement that it have an operating permit or interim status at its Facilities.

58. As a result, Respondent became an operator of two hazardous waste treatment, storage and disposal facilities.

59. Respondent's storage of hazardous waste without a permit or interim status at its Facilities constitutes a violation of Section 3005 of RCRA, 42 U.S.C. § 6925, 40 C.F.R. Parts 265 and 270 and 35 IAC Parts 703 and 725.

60. Respondent's violation of Section 3005 of RCRA, 42 U.S.C. § 6925, 40 C.F.R. Parts 265 and 270 and 35 IAC Parts 703 and 725 subjects the Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 3008(a) of RCRA, 42 U.S.C. §

6728(a).

Count 2

61. Complainant incorporates paragraphs 1 through 55 of this CAFO as though set forth in this paragraph.

62. Respondent's failure to comply with the contingency plan and emergency procedures requirements of 40 C.F.R. Part 265, Subpart D and 35 IAC Part 725, Subpart D at its Facilities constitutes a failure to satisfy all of the conditions for maintaining its exemption from the requirement that it have an operating permit or interim status at its Facilities.

63. As a result, Respondent became an operator of two hazardous waste treatment, storage and disposal facilities.

64. Respondent's storage of hazardous waste without a permit or interim status at its Facilities constitutes a violation of Section 3005 of RCRA, 42 U.S.C. § 6925, 40 C.F.R. Parts 265 and 270 and 35 IAC Parts 703 and 725.

65. Respondent's violation of Section 3005 of RCRA, 42 U.S.C. § 6925, 40 C.F.R. Parts 265 and 270 and 35 IAC Parts 703 and 725 subjects the Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 3008(a) of RCRA, 42 U.S.C. § 6728(a).

Count 3

66. Complainant incorporates paragraphs 1 through 55 of this CAFO as though set forth in this paragraph.

67. Respondent's failure to prepare multiple Manifests in accordance with the instructions in the appendix to 40 C.F.R. Part 262 constitutes a violation of Section 3002 of RCRA, 42 U.S.C. § 6922, 40 C.F.R. §§ 262.20 and 262.23 and 35 IAC 722.120 and 722.23.

68. Respondent's violation of Section 3002 of RCRA, 42 U.S.C. § 6922, 40 C.F.R. §§ 262.20 and 262.23 and 35 IAC 722.120 and 722.23 subjects the Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 3008(a) of RCRA, 42 U.S.C. § 6728(a).

Count 4

69. Complainant incorporates paragraphs 1 through 55 of this CAFO as though set forth in this paragraph.

70. Respondent's failure to submit Annual Reports to the Illinois EPA for the calendar years 2012, 2013 and 2014 in compliance with 40 C.F.R. § 262.41(a) and 35 IAC § 722.141(a) at its Facilities constitutes a violation of Section 3002 of RCRA, 42 U.S.C. § 6922, 40 C.F.R. §§ 262.41 and 35 IAC 722.141.

71. Respondent's violation of Section 3002 of RCRA, 42 U.S.C. § 6922, 40 C.F.R. § 262.41 and 35 IAC 722.141 subjects the Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 3008(a) of RCRA, 42 U.S.C. § 6728(a).

Civil Penalty

72. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$65,400. In determining the penalty amount, Complainant took into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements and Respondent's agreement to perform a supplemental environmental project. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

73. Within 30 days after the effective date of this CAFO, Respondent must pay a

\$35,000 civil penalty for the RCRA violations. Respondent must pay the penalty by electronic funds transfer, payable to the "Treasurer, United States of America," and send it to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address FRNYUS33
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, include "GDB International, Inc." and the docket number of this CAFO.

74. Respondent must send a notice of payment that states Respondent's name 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 Blvd.
Chicago, IL 60604

Ms. Diane Sharrow (LR-8J)
RCRA Branch, Land and Chemicals Division
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Ms. Nidhi O'Meara (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

76. If Respondent does not timely pay the civil penalty or any stipulated penalties due under paragraph 92 of this CAFO, 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.

77. 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 payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). 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.

Implementation of Supplemental Environmental Project

78. In accordance with the March 10, 2015 Update to the 1998 Supplemental Environmental Projects Policy (SEP Policy), Respondent must complete the supplemental environmental project (SEP) described in the paragraphs below in this CAFO.

79. Respondent must implement an Environmental Management System (EMS) that is designed to protect the environment and public health by improving the management of all aspects of the Facilities' operations which will promote waste minimization and pollution prevention initiatives.

80. Respondent must complete the EMS SEP at its Facilities as follows:

- a. **Task 1:** On September 9-10, 2015, Respondent completed an environmental, health and safety (EHS) Multi-Media Audit at its Facilities. On October 9, 2015, Respondent issued a draft report on this EMS Multi-Media Audit¹.
- b. **Task 2(a):** On or before June 30, 2016, Respondent must develop the

¹ A Notice of Violation was issued in this matter on August 19, 2015. Therefore, in accordance with the SEP Policy, this portion of the project was not commenced until after the Agency identified violations. See p. 6 of the SEP Policy.

framework and detailed implementation schedule of the EMS. See Attachment A for further details.

- c. **Task 2(b):** On or before July 31, 2016, the Respondent must begin the development and roll out of the individual elements of the EMS.
- d. **Task 3(a):** On or before August 15, 2016, the Respondent must conduct a site review of the Facilities to identify which elements of the EMS are being implemented and which elements need to be further developed and implemented. See Attachment B for further details.
- e. **Task 3(b):** On or before September 15, 2016, the Respondent must summarize its August 15, 2016 site review. EMS elements that are missing or are observed to be incomplete at the Facilities shall be developed and implemented. See Attachment B for further details.
- f. **Task 4:** On or before December 15, 2016, Respondent must have a final EMS framework finalized. See Attachment C for further details.
- g. **Task 5:** On or before December 20, 2016, Respondent must train all personnel at its Facilities in the establishment and effective application of the EMS. See Attachment D for further details.

81. Respondent must spend at least \$37,400 to complete this SEP, as described above, by December 20, 2016. See Attachment E for further details.

82. Respondent certifies that it is not required to perform or develop this SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for this SEP in any other enforcement action.

83. U.S. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

84. Respondent must maintain copies of the underlying research and data for all reports submitted to U.S. EPA pursuant to this CAFO. Respondent must provide the documentation of any underlying research and data to U.S. EPA within seven days of U.S. EPA's request for the information.

85. Respondent must submit a certified report confirming the completion of each task described in paragraph 80 of this CAFO, within 30 days after the date of each task. For Task 1, Respondent must submit a copy of the October 9, 2015 draft report on the EMS Multi-Media Audit and a report confirming completion of Task 1 within 30 days of the filing of this CAFO.

86. Respondent must include in each certified report an accounting of the costs associated with completing each task in paragraph 80 of this CAFO, along with invoices and receipts that show the expenditures associated with each task. See Attachment E for the minimum cost Respondent must spend for each task.

87. Respondent must submit a final certified SEP completion report to U.S. EPA by January 20, 2017. This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO; and
- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

88. Respondent must submit all notices and reports required by this CAFO by first class or overnight mail to Ms. Diane Sharrow of the RCRA Branch.

89. In each report that Respondent submits, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

90. Following receipt of the final certified SEP completion report described in paragraph 87 of this CAFO, U.S. EPA must notify Respondent in writing that:

- a. Respondent has satisfactorily completed the SEP;
- b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 92 of this CAFO.

91. If U.S. EPA exercises option b, above, Respondent may object in writing to the deficiency notice within ten days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any requirements that U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 92 of this CAFO.

92. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete

the SEP satisfactorily according to the requirements of this CAFO including the schedule in paragraph 80 of this CAFO, Respondent must pay an additional penalty of \$45,600, in addition the civil penalty paid in accordance with paragraph 73 of this CAFO.

- b. If Respondent did not complete the SEP satisfactorily, but U.S. EPA determines that Respondent (i) made good faith and timely efforts to complete the SEP and (ii) certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 81 of this CAFO, Respondent will not be liable for a stipulated penalty under subparagraph a, above.
- c. If Respondent completed the SEP satisfactorily, but spent less than 90 percent of the amount set forth in paragraph 81 of this CAFO, Respondent must pay an additional penalty of \$7,600, in addition to the civil penalty paid in accordance with paragraph 73 of this CAFO.
- d. If Respondent did not timely submit the SEP completion report, or did not timely submit any other report required by paragraphs 85, 86, and 87, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$500	1 st through 14 th day
\$750	15 through 30 th day
\$1,000	31 st day and beyond

93. U.S. EPA’s determinations of whether Respondent satisfactorily completed the SEP and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

94. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA’s written demand for the penalties. Respondent will use the method of payment specified in paragraphs 73 and 74 above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

95. Any public statement that Respondent makes referring to the SEP must include the following language, “GDB International, Inc., undertook this project under the settlement of the United States Environmental Protection Agency’s enforcement action against GDB International,

Inc., for violations of the Resource Conservation and Recovery Act, its implementing regulations in the Illinois Administrative Code.”

96. For Federal Income Tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

Certifications

97. With regard to the SEP, GDB certifies to the truth and accuracy of each of the following statements:

- a. That all cost information provided to the EPA in connection with the EPA’s approval of the SEP is complete and accurate and that GDB in good faith estimates that the cost to implement the SEP is \$37,400;
- b. That, as of the date of executing this CAFO, GDB is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;
- c. That the SEP is not a project that GDB was planning or intending to construct, perform or implement other than in settlement of the violations alleged in this CAFO;
- d. That GDB has not received and will not receive credit for the SEP in any other enforcement action;
- e. That GDB will not receive reimbursement for any portion of the SEP from another person or entity;
- f. That for federal income tax purposes, GDB agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in

performing the SEP;

- g. GDB is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in this CAFO;
and
- h. GDB has inquired of the contractor it is using to assist in the design and implementation of this SEP whether it is a party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by the contractor that it is not a party to such a transaction.

General Provisions

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

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

100. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

101. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

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

103. 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.

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

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

GDB International, Incorporated, Respondent

Date

Sanjeev K. Bagaria

Chief Executive Officer,
Sanjeev Bagaria

United States Environmental Protection Agency, Complainant

8/9/2016

Date



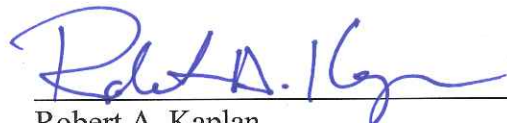
Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
GDB International, Incorporated
Docket No. RCRA-05-2016-0015

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.

8/14/19
Date


Robert A. Kaplan
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

Attachment A

Task 2(a) – Develop the EMS Framework

Respondent will develop the framework for the EMS and define how the EMS meets the requirements of a SEP as documented in Sections V & VII of the SEP Policy. The EMS will be modeled on the requirements outlined in ISO 14001:2004, and include the specific requirements on leadership as outlined in ISO 14001:2015.

Respondent will schedule several strategy calls in order to ensure smooth progress on program design and development. Specifically, the EMS framework will address the following elements:

a) *Environmental Policy*

Respondent will develop a facility-specific environmental policy statement which reflects management's commitment to regulatory compliance, risk control, waste minimization, pollution prevention, adequate resourcing and continual improvement in environmental performance.

b) *Planning*

Respondent will develop a risk assessment methodology which will enable the Respondent to identify and prioritize the actual and potential environmental aspects and impacts associated with its operations, products, services and activities at its Facilities.

1. Based on the identified environmental issues at the Facilities, the EMS will define GDB's process for recognizing, interpreting and communicating potentially applicable environmental regulatory requirements, including changes in such requirements.
2. Any Management of Change (MOC) framework or process that GDB currently has in place will be linked to the risk assessment to ensure that any building, product, material, process, equipment or maintenance activity changes are evaluated for potential environmental impacts or noncompliance with environmental requirements during the planning, design and operation of such changes.
3. The process for setting objectives and targets which reflect GDB's commitment to pollution prevention, regulatory compliance and continuous improvement in performance will be defined. Action plans will be developed which outline timeframes and specific responsibilities for each process unit and organizational department.
4. The integration of environmental planning into organizational decision-making will be addressed.

c) *Organization, Accountability and Responsibility*

1. The EMS framework will define roles, responsibilities, authorities and required competencies of site leadership, managers and key staff in the implementation and maintenance of the EMS, in particular regulatory compliance responsibilities.

References will be made to specific job position descriptions, including those determined to be hazardous waste related job descriptions and responsibilities.

2. Reporting relationships will be defined to ensure clear pathways for communication and accountabilities are understood.
3. Responsibilities for contractor management will be defined to outline compliance obligations for contractors and oversight responsibilities for site personnel.
4. Incentive and disciplinary programs will be defined, as appropriate.

d) *Implementation and Operational Control*

1. For each identified environmental risk, the EMS will establish associated operational controls which are monitored through periodic inspections or otherwise to ensure compliance and effectiveness.
2. The EMS will reference standard operating procedures (SOPs) or other stand-alone documents to ensure operations are carried out under specified conditions.
3. The processes for preventing, reducing, recycling, reusing and minimizing waste will be described. Waste minimization procedures will be designed to work with product suppliers in establishing a diligent process to screen and remove non-conforming materials from their shipments to GDB and to implement a robust GDB program for evaluating potential beneficial use of any non-conforming materials that make it through the supplier screening processes.
4. The pollution prevention (P2) processes for minimizing emissions and discharges from facility operations will be described. The P2 procedures will prioritize opportunities to reduce waste generation, wastewater discharges and air emission from the latex paint recycling process, as well as minimizing the waste or emissions created from any product repackaging activities that are conducted when damaged packaging containers are encountered.
5. The process for identifying training needs, delivering and documenting required training to GDB employees as well as contractors, vendors and visitors will be defined. A program for annual training for all personnel with environmental responsibilities related to the EMS and regulatory compliance will be developed.
6. Internal and external communication processes will be defined to address communication of environmental issues, incidents, non-compliance events, requirements and responsibilities.
7. Critical documents which are required for the EMS will be defined. Document control, recordkeeping requirements and use of document/data management systems will be addressed.
8. Emergency preparedness and response programs will be referenced as separate, stand-alone supporting documents.

e) *Checking, Evaluation and Improvement*

1. The EMS will define compliance monitoring and measuring procedures to ensure that periodic evaluation of environmental parameters is ongoing and effective.
2. Processes for routine self-inspections by departmental personnel will be defined.
3. Programs for conducting periodic audits of the EMS as well as audits of facility compliance with regulatory requirements will be addressed.

4. The EMS will define the procedures for reporting, investigating and correcting any non-conformance within the EMS and any non-compliance with regulatory requirements.
5. A process for periodic evaluation of the EMS by senior management to ensure its continuing suitability, adequacy and effectiveness will be developed and defined. Associated templates needed to implement the EMS that GDB will be developing include the following:
 - Environmental Policy Statement
 - Risk Assessment
 - Objectives and Targets Matrix
 - Roles and Responsibilities for Key Personnel
 - Audit Procedures (both EMS and regulatory compliance audits)
 - Records retention matrix
 - Document control matrix
 - Corrective action procedures
 - Management Review agenda template

The templates as listed above are fundamentally core EMS tools that will need to be customized to cover EMS aspects specific to GDB'S Nashville, IL facilities. GDB personnel will collaboratively populate the templates with site specific information. This will ensure that GDB personnel who will actually be using the EMS will buy-in and take ownership of the tools developed to implement the program. GDB personnel will ensure that each document is accurate, thorough and addresses the stipulated requirements.

Attachment B

Task 3(a) and (b) –Site Visit for EMS Development

GDB will conduct a site review of the Facilities to review and discuss the draft EMS framework, associated documents and implementation schedule with GDB personnel. During the site review, GDB will meet with members of each department, e.g. Warehousing, Maintenance, Production, etc., to discuss the proposed procedures and programs. This step is critical to ensure that those responsible for the implementation of the EMS elements have an opportunity to provide input and feedback on the draft procedures and established implementation schedule. In addition, the site review may include further review of existing site documentation which may address elements of the EMS. At the end of the site review, GDB will outline the remaining tasks to complete the EMS and associated documents.

Attachment C

Task 4 – Delivery of Final EMS Framework and Associated Documents

Following Task 3, GDB will complete the necessary revisions and/or additions to the EMS framework, associated documents and implementation schedule. GDB will then submit the final deliverables to EPA.

Attachment D

Task 5 –EMS Training

GDB will conduct a training workshop to provide direction to GDB management and key staff on the elements of the EMS. The workshop will cover each element of the management system, instructing the participants on the purpose, requirements and implementation of each element. This customized training will allow GDB to become completely familiar and comfortable with the processes, procedures, tools and templates developed within the management system. Workshop attendees will include EHS professionals and/or operations representatives from each department.

Attachment E

Projected Cost for EMS SEP for GDB

Task No.	Description	Est. Labor Hours	TOTAL COST
1	EHS Compliance Audit	60	\$10,300
2	Development of Implementation Schedule and & EMS Framework	80	\$14,200
3	EMS Specific site review	20	\$3,900
4	Edits to Draft EMS/ Final Delivery of EMS	15	\$2,500
5	EMS Training	10	\$2,100

Total Estimated Labor Costs	\$33,000
Miscellaneous Expenses (travel, per diem contingency expenses, etc.)	\$4,400
Projected Cost of SEP to GDB	\$37,400

Consent Agreement and Final Order
In the matter of: GDB International Incorporated
Docket Number: RCRA-05-2016-0015

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number RCRA-05-2016-0015, which was filed on August 24, 2016, in the following manner to the following addressees:

Copy by Certified Mail to
Respondent:

Mr. Sanjeev Bagaria
GDB International, Inc.
One Home News Row
New Brunswick, NJ 08901

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

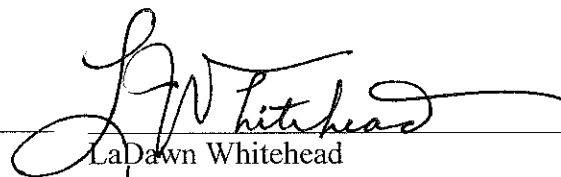
Copy by E-mail to
Attorney for Complainant:

Nidhi O'Meara
omeara.nidhi@epa.gov

Copy by E-mail to
EPA Enforcement staff contact:

Diane Sharrow
Sharrow.diane@epa.gov

Dated: August 24, 2016



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

CERTIFIED MAIL RECEIPT NUMBER(S): 7009 1680 0000 7647 3194