

U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 N. 5th STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF:)
)
Trenton Agri Products, LLC)
)
)
)
Respondent.)

EPA Docket No. CAA-07-2006-0222

CONSENT AGREEMENT FINAL ORDER

This proceeding for the assessment of a civil penalty was initiated on or about July 6, 2006, pursuant to 113 (d) of the Clean Air Act (the "Act"), 42 U.S.C § 7413 (d), when the United States Environmental Protection Agency (EPA or Complainant) issued a Complaint and Notice of Opportunity for Hearing (Complaint) to Trenton Agri Products, LLC (Respondent).

The Complaint charged Respondent with violation of 40 C.F.R. §60.112b (a) (1) (ii), 40 C.F.R. Part 60, Subpart Kb, and Section 111 of the Act for failure to install required closure devices on each internal floating roof of Volatile Organic Liquid Storage Vessels.

The Complaint proposed a total civil penalty of Fifty-Two Thousand Nine Hundred Eighty-Nine Dollars (\$52,989.00) against Respondent for these violations. Complainant and Respondent entered into negotiations in an attempt to settle the allegations contained in the Complaint. This Consent Agreement and Final Order is the result of such negotiations, and fully and finally resolves the allegations contained in the Complaint.

CONSENT AGREEMENT

1. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint, and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Consent Agreement and Final Order.

2. Respondent neither admits nor denies the factual allegations set forth in the Complaint. Respondent avers that its facility was originally constructed by a third party under a construction contract that required compliance with all air quality regulations then in effect. Respondent further avers that it had no knowledge that the internal floating roof closure devices on the storage tanks, as configured and installed, were not in compliance with the Clean Air Act.

3. Respondent waives its right to contest the allegations of the Complaint and its right to appeal the Final Order accompanying this Consent Agreement.

4. Respondent and Complainant agree to conciliate this matter without the necessity of a formal hearing and to each bear their own respective costs and attorneys' fees.

5. Respondent certifies by the signing of this Consent Agreement and Final Order that it is presently in compliance with all requirements of Section 111 of the Act, 42 U.S.C § 7411, and 40 C.F.R. Part 60, Subpart Kb.

6. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty in the amount of Seventeen Thousand Five-Hundred Dollars (\$17,500.00) to be paid within thirty (30) days of the effective date of the Final Order. Payment of the civil penalty shall resolve all civil and administrative claims alleged by EPA in the Complaint.

7. Respondent understands that its failure to timely pay any portion of the mitigated civil

penalty stated in paragraph 6 above may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the applicable statutory rate on the unpaid balance until such civil or stipulated penalty and any accrued interest are paid in full. A late payment handling charge of \$15 will be imposed after thirty (30) days and an additional \$15 will be charge for each subsequent thirty (30) day period.

8. The effect of settlement described in Paragraph 6 above is conditioned upon the accuracy of the Respondent's representations to EPA, as memorialized in Paragraph 5 above.

FINAL ORDER

Pursuant to the provisions of the 113 (d) of the Clean Air Act, 42 U.S.C § 7413 (d), and based upon the information set forth in the Consent Agreement accompanying this Final Order, **IT IS HEREBY ORDERED THAT:**

1. Respondent shall pay a mitigated civil penalty of \$17,500.00 within thirty (30) days of the effective date of this Final Order. Such payment shall identify the Respondent by name and docket number and shall be by certified or cashiers check made payable to the "United States Treasury" and sent to:

EPA-Region 7
c/o Mellon Bank
P.O. Box 371099M
Pittsburgh, Pennsylvania 15251.


2. A copy of the check shall simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 7
901 N. 5th Street
Kansas City, Kansas 66101; and

Jennifer Trotter
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
901 N. 5th Street
Kansas City, Kansas 66101.

3. Respondent and Complainant shall each bear their own costs and attorneys' fees incurred as a result of this matter.

RESPONDENT
TRENTON AGRI PRODUCTS, LLC.

Date: October 13, 2006 By: 
President
TITLE

COMPLAINANT
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 10/25/06 By: 
Carol Kather
Acting Director
Air, RCRA and Toxics Division

Date: 10-24-06 By: 
Jennifer L. Trotter
Office of Regional Counsel

IT IS SO ORDERED. This Order shall become effective immediately.

Date: 10/30/06

Karina Borromeo

KARINA BORROMEEO
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 7

IN THE MATTER OF Trenton Agri Products, LLC, Respondent
Docket No. CAA-07-2006-0222

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Jennifer L. Trotter
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Charles B. Wilson, President
Trenton Agri Products, LLC
P.O. Box 218
Trenton, Nebraska 69044

Copy by Facsimile and
First Class Pouch Mail to:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

and

The Honorable Carl C. Charneski
Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

Dated: 10/30/06



Kathy Robinson
Hearing Clerk, Region 7