

U. S. ENVIRONMENTAL PROTECTION AGENCY

REGION VII
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)	
)	
Midwest Laboratories, Inc.)	Docket No. RCRA-07-2008-0008
13611 B Street)	
Omaha, Nebraska 68144)	
)	
Respondent.)	

JOINT MOTION TO AMEND CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The United States Environmental Protection Agency (EPA), Region VII and Midwest Laboratories, Inc. (Respondent) agreed to a settlement of Respondent's violations of the Resource Conservation and Recovery Act (RCRA) and memorialized the settlement through a Consent Agreement and Final Order (CAFO) on September 19, 2008. The Respondent allegedly violated Section 3005 of RCRA, 42 U.S.C. § 6925, and Title 128, Chapter 9 of the Nebraska Administrative Code Regulations, by operating as a hazardous waste facility without a RCRA permit or RCRA interim status.

The CAFO ordered Respondent to pay a mitigated penalty of \$44,992.00. In addition to this mitigated penalty, the Respondent agreed to perform a Supplemental Environmental Project (SEP). The SEP consists of Respondent validating the methods specified in the CAFO, purchasing and installing four 4790 extractors to expand the capability of the existing Horizon 4790 Extractor System, and running the specified validated methods in the expanded Horizon 4790 Extractor System in order to reduce the use of hazardous materials in Respondent's analytical testing and ultimately reduce the amount of hazardous waste generated by the Respondent.

Since the effective date of the CAFO, September 19, 2008, Respondent has paid the penalty referenced in the CAFO and has turned in an Interim SEP Report to EPA. According to Paragraph 53 of the CAFO, the Respondent is required to submit a Final SEP Report (SEP Completion Report) to EPA seven months from the effective date of the CAFO. This would make the Final SEP Report due on April 19, 2009. One of the elements required to be included in the Final SEP Report is a detailed description of the method validation as implemented. Respondent contacted EPA on February 23, 2009, to inform EPA that they had experienced problems with the delivery of the 4790 Extractors which would impact their ability run the validated methods within the timeframe referenced in the CAFO. Because of this unexpected complication, the Respondent has requested an extension, until June 30, 2009, to submit the

Final SEP Report to EPA as required by the CAFO. EPA does not object to Respondent's request.

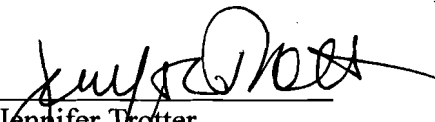
The Amendment To Consent Agreement and Final Order extends the deadline by which the Respondent must submit the Final SEP Report to EPA. Respondent and EPA have signed the Amendment To Consent Agreement and Final Order. Attachment 1.

No other changes to the CAFO have been made.

Motion

Pursuant to 40 C.F.R. § 22.16, Complainant and Respondent hereby move for an Order granting this Joint Motion to file an Amended Consent Agreement and Final Order.

Respectfully Submitted,



Jennifer Trotter
Counsel for Complainant

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of April, 2009, I filed the Original Joint Motion to Amend Consent Agreement and Final Order with the Regional Hearing Clerk, EPA Region 7, 901 North Fifth Street, Kansas City, Kansas 66101. I also delivered copies of this document to the following:
Omaha, Nebraska 68154-4475

Kimberly Keyf

APR 9 2009
Date