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EPA--REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:)	
)	
Targa Sound Terminal LLC)	Docket No. EPCRA-10-2013-0061
Tacoma, Washington)	CONSENT AGREEMENT AND FINAL
)	ORDER
)	
Respondent.)	
_____)	

I. AUTHORITY

1.1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 325 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045.

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who in turn has redelegated this authority to the Regional Judicial Officer.

1.3. Pursuant to Section 325 of EPCRA, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA hereby issues and Targa Sound Terminal LLC (“Respondent”) hereby agrees to issuance of the Final Order contained in Part V of this CAFO.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18, issuance of this CAFO commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 has been delegated the authority to sign consent agreements between EPA and the party against who an administrative penalty for violations of Section 312 of EPCRA is proposed to be assessed pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045.

2.3. Respondent owns and operates a facility in Tacoma, Washington located at 2628 Marine View Drive (the "Facility").

2.4. The Facility is a petroleum terminal supplying fuels and asphaltic materials to industry in the Pacific Northwest.

2.5. A concise statement of the factual basis for alleging violations of EPCRA, together with specific references to the provisions of the statutes and implementing regulations Respondent is alleged to have violated, appears in Part III of this CAFO.

III. ALLEGATIONS

3.1. Respondent is a corporation incorporated in the State of Delaware.

3.2. Under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), "person" means, among other things, any corporation.

3.3. Under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), "facility" means all buildings, equipment, structures, and other stationary items that are located on a single site or on

contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled, or under common control with, such person).

3.4. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370 require the owner or operator of a facility, which is required by the Occupational Safety and Health Administration (“OSHA”) to prepare or have available a material safety data sheet (“MSDS”) for a hazardous chemical, to submit a completed Emergency and Hazardous Chemical Inventory Form (Tier I or Tier II as described in 40 C.F.R. Part 370) to the state emergency response commission (“SERC”), the local emergency planning committee (“LEPC”), and the fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter. The form must contain the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), covering all hazardous chemicals present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000 pounds and all extremely hazardous chemicals present at the facility at any one time in amounts equal to or greater than 500 pounds or the threshold planning quantity (“TPQ”) designated by EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

3.5. Under OSHA regulations at 29 C.F.R. § 1910.1200, employers must provide information, including MSDSs, about hazardous chemicals to which their employees may be exposed.

3.6. #6 Fuel Oil, Denatured Ethanol, #2 Diesel, Asphalt, and Propane are hazardous chemicals as defined under 29, C.F.R. § 1200(c).

3.7. OSHA requires Respondent to prepare, or have available, an MSDS for #6 Fuel Oil, Denatured Ethanol, #2 Diesel, Asphalt, and Propane.

3.8. #6 Fuel Oil, Denatured Ethanol, #2 Diesel, Asphalt, and Propane each have a TPQ of 10,000 pounds as provided in 40 C.F.R. § 370.10(a)(2).

3.9. During each calendar year from 2008 to 2010, #6 Fuel Oil, Denatured Ethanol, #2 Diesel, Asphalt, and Propane were each present at the Facility at any one time in an amount equal to or greater than their respective TPQs.

3.10. Respondent did not submit to the SERC, LEPC and the fire department an Emergency and Hazardous Chemical Inventory Form including #6 Fuel Oil, Denatured Ethanol, #2 Diesel, Asphalt, and Propane for calendars year 2008, 2009, and 2010.

3.11. Under Section 325 of EPCRA, 42 U.S.C. § 11045, EPA may assess a civil penalty for each day of violation of Section 312 of EPCRA, 42 U.S.C § 11022.

IV. CONSENT AGREEMENT

4.1. Respondent admits the jurisdictional allegations contained in Part III of this CAFO.

4.2. Respondent neither admits nor denies the specific factual allegations contained in Part III of this CAFO.

4.3. Respondent expressly waives any rights to contest the allegations and to appeal the Final Order contained herein.

4.4. The provisions of this CAFO shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.5. Except as provided in Paragraph 4.9., below, each party shall bear its own costs in bringing or defending this action.

4.6. Based on Respondent's willingness to settle this matter without litigation, the nature of the violations, Respondent's agreement to perform Supplemental Environmental Projects ("SEPs"), other relevant factors, and in accordance with the *Enforcement Response Policy for Sections 304, 311, and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act*, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$13,435.00.

4.7. Respondent consents to the issuance of the Final Order recited herein and to payment of the penalty cited in Paragraph 4.6 above within 30 days of the effective date of the Final Order.

4.8. Payment under this CAFO shall be made by cashier's check or certified check payable as indicated and mailed to the addresses below:

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

Respondent shall note on the check the title and docket number of this case. Respondent also may make the penalty payment by wire transfer or credit card in accordance with instructions provided by EPA. Respondent shall submit a photocopy of the checks, or documentation of the wire transfer described above to the following two addresses:

In the Matter of: Targa Sound Terminal LLC
Consent Agreement And Final Order
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U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1037

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Suite 900
1200 Sixth Avenue, Mail Stop ORC-158
Seattle, Washington 98101

Suzanne Powers
U.S. Environmental Protection Agency, Region 10
Washington Operations Office
300 Desmond Drive S.E., Suite 102
Lacey, Washington 98503

4.9. Should Respondent fail to pay the penalty assessed by this CAFO in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Should such a failure to pay occur, Respondent may be subject to a civil action under EPCRA Section 325(f), 42 U.S.C. § 11045(f), to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below.

a. Interest. Any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order set forth in Part V, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order.

b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the assessed penalty is more than 30 days past due.

c. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the assessed penalty that is more than

90 days past due, which nonpayment penalty shall be calculated as of the date the underlying penalty first becomes past due.

4.10. Respondent agrees to implement SEPs consisting of the purchase and donation of: (1) an upgrade to the hazardous materials ID processor (HazMat ID 360) to Graham Fire & Rescue, the lead agency for the Pierce County Hazardous Incident Team; (2) Drum Seal and Leak Seal Kits to Central Pierce Fire & Rescue; and (3) Emergency Response Supplies, which include Bio Threat kits, spill neutralizers, a sample pump kit, leak sealing kits, and a Chip Management System (CMS) analyzer to the Tacoma Fire Department. Respondent agrees to implement and complete the SEPs within 60 days of the effective date of this CAFO, in accordance with all provisions described in this Consent Agreement and Attachment A to this CAFO. The parties agree that these SEPs are intended to secure significant environmental benefits by significantly reducing the risk of a release of hazardous chemicals into the environment by improving emergency management to allow a more immediate, effective, and safe response in the event of an accidental/inadvertent sudden release of a hazardous chemical.

4.11. Respondent's deadlines to perform the SEPs shall be excused or extended if such performance is prevented or delayed solely by events which constitute a Force Majeure event. A Force Majeure event is defined as any event arising from causes beyond the reasonable control of Respondent, including its employees, agents, consultants, and contractors, which could not be overcome by due diligence and which delays or prevents the performance of a SEP within the specified time period. A Force Majeure event does not include, *inter alia*, increased costs of performance, changed economic circumstances, changed labor relations, normal precipitation or

climate events, changed circumstances arising out of the sale, lease, or other transfer or conveyance of title or ownership or possession of a site, or failure to obtain federal, state, or local permits.

4.12. Respondent also certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the SEPs by any federal, state, or local law or regulation; nor is Respondent required to perform or develop the SEPs by any other agreement, under a grant, or as injunctive relief in any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEPs. For federal income tax purposes, Respondent agrees that it will neither capitalize in inventory or basis nor deduct any costs or expenditures incurred in performing the SEPs.

4.13. Respondent hereby certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEPs described in Attachment A. Respondent further certifies that it has inquired of each SEP recipient whether it is party to any open federal financial transaction that is funding or could be used to fund the same activity as the SEP and has been informed by the recipient that it is not party to such transaction, and is not otherwise aware of any open federal financial assistance transaction that is funding or could fund the same activity as the SEPs.

4.14. Respondent shall submit a SEP Completion Report to EPA within 90 days after the effective date of the CAFO. The SEP Completion Report shall contain the following information:

- a. A description of the SEPs as implemented;
- b. Certification that the SEPs have been fully implemented pursuant to the provisions of this CAFO;
- c. A description of any problems encountered and the solutions thereto; and
- d. A description of the environmental and public health benefits resulting from implementation of the SEPs.

4.15. Unless otherwise instructed in writing by EPA, Respondent shall submit all notices and reports required by this CAFO by first class mail, overnight mail, or hand delivery to:

Suzanne Powers
U.S. Environmental Protection Agency, Region 10
Washington Operations Office
300 Desmond Drive SE, Suite 102
Lacey, Washington 98503

4.16. Respondent agrees that EPA may inspect Respondent's records related to the SEP at any reasonable time in order to confirm that the SEPs are being undertaken in conformity with the representations made herein.

4.17. Respondent shall maintain legible copies of documentation of the underlying data for documents or reports submitted to EPA pursuant to this CAFO until the SEP Completion Reports are accepted pursuant to Paragraph 4.18., and Respondent shall provide the documentation of any such underlying data to EPA within 15 days of a written request for such information. In all documents or reports including, without limitation, the SEP Completion Report submitted to EPA pursuant to this CAFO, Respondent shall, by a corporate officer, sign

and certify under penalty of law that the information contained in such a document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

4.18. Following receipt of the SEP Completion Report described in Paragraph 4.14. above, EPA will do one of the following: (i) accept the Report; (ii) reject the Report, notify Respondent, in writing, of deficiencies in the Report, and provide Respondent an additional 30 days in which to correct any deficiencies; or (iii) reject the Report and seek stipulated penalties in accordance with Paragraph 4.20.

4.19. If Respondent fails to satisfactorily complete the SEP as contemplated by this CAFO and this failure was not caused solely by events which constitute a Force Majeure as defined by Paragraph 4.11. above, then stipulated penalties shall be due and payable by Respondent to EPA upon demand in accordance with Paragraphs 4.20., below.

4.20. If Respondent fails to satisfactorily complete the SEP required by this CAFO, Respondent shall pay stipulated penalties, upon written demand from EPA, in the following amount for each day that each SEP remains incomplete:

Period of Noncompliance	Penalty Per Violation Per Day
1st through 7 th day	\$ 100.00
8 th through 21 st day	\$ 250.00

22 nd through 30 th day	\$ 500.00
Greater than 30 days	\$ 1,000.00

4.21. The determination of whether the SEPs have been satisfactorily completed and whether Respondent has made a good faith, timely effort to implement the SEPs is reserved to the sole discretion of EPA.

4.22. Respondent shall pay stipulated penalties within 15 days of receipt of a written demand by EPA for such penalties. Payment shall be in accordance with the provisions of Paragraph 4.8., above. Interest and late charges shall be paid as stated in Paragraph 4.9. above.

4.23. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEPs shall include the following language: "This project was undertaken in connection with the settlement of an administrative enforcement action taken by the U.S. Environmental Protection Agency under the 'Emergency Planning and Community Right-to-Know Act.'"

4.24. The penalty described in Paragraph 4.6., including any additional costs incurred under Paragraph 4.10., represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.25. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

4.26. Respondent represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on its behalf is duly authorized to bind Respondent to the terms of this CAFO.

4.27. Compliance with all the terms and conditions of this CAFO shall result in full settlement and satisfaction of all claims for penalties alleged in Section III above.

STIPULATED AND AGREED:

FOR TARGA SOUND TERMINAL LLC,

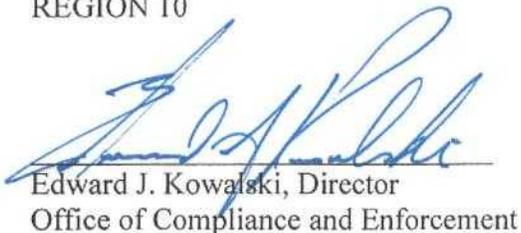

Signature

Dated: 9/4/2013

Print Name: Vincent Di Cosimo

Title: VP, Products + Crude,
Storage and Terminating

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10


Edward J. Kowalski, Director
Office of Compliance and Enforcement

Dated: 9/13/2013

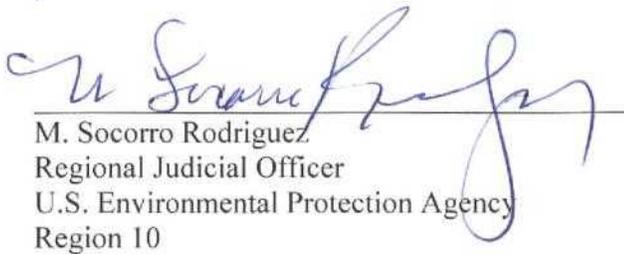
V. FINAL ORDER

5.1. The terms of the foregoing Consent Agreement are hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the terms of settlement contained in the Consent Agreement.

5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to EPCRA for the particular violations alleged in Part III, above. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the Act and regulations and permits issued thereunder.

This Final Order shall become effective upon filing.

SO ORDERED this 18th day of September, 2013.


M. Socorro Rodriguez
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in: **In the Matter of: Targa Sound Terminal LLC, Docket No. EPCRA-10-2013-0061**, was filed, and served as follows, on the signature date below.

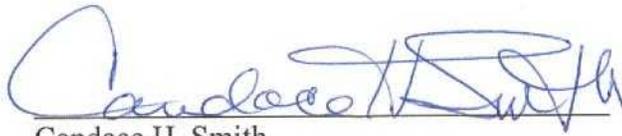
The undersigned certifies that a true and correct electronic copy of the document was delivered to:

Robert Hartman
U.S. Environmental Protection Agency
Region 10, M/S: ORC-158
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of this document was placed in the United States mail, certified/return receipt, to:

Tom Meriwether
Senior Counsel
Targa Sound Terminal LLC
1000 Louisiana, Suite 4300
Houston, TX 77002

18th Sept 2013
Dated


Candace H. Smith
Regional Hearing Clerk
EPA Region 10

ATTACHMENT A

IN THE MATTER OF: TARGA SOUND TERMINAL LLC
EPA DOCKET NO. EPCRA-10-2013-0061
SUPPLEMENTAL ENVIRONMENTAL PROJECTS (“SEPs”)

Respondent will purchase and donate the equipment listed below to Graham Fire & Rescue, Central Pierce Fire & Rescue, and Tacoma Fire Department, all members of the Pierce County Hazardous Incident Management Team, as indicated. These items were specifically identified by Katie Gillespie, Mitigation Coordinator for Pierce County Emergency Management, on behalf of the Local Emergency Planning Committee (“LEPC”), as equipment that will improve the capabilities of the emergency response members of the LEPC in responding to hazardous materials emergencies in a safe and effective manner. Respondent will complete these SEPs within 60 days of the entry of the Consent Agreement and Final Order.

Pierce County Hazardous Incident Team

HazMat ID 360 Upgrade – Graham Fire & Rescue (“GFR”) is the lead agency for the Pierce County Hazardous Incident Team. Respondent will purchase and donate an upgrade to GFR’s HazMat ID processor; this upgrade will allow GFR to analyze chemical constituents in less than two minutes. The upgrade includes secure Bluetooth wireless communications and other features to increase the real-time resources available to GFR to respond to emergency situations.

Estimated Cost: \$16,425 (including sales tax).

Drum and Leak Seal Kits – Central Pierce Fire & Rescue (“CPFR”) is part of the Pierce County Hazardous Incident Team. Respondent will purchase and donate drum and leak seal kits to CPFR, which will be used to stop leaks from drums, pipes, and tanks.

Estimated Cost: \$8,994 (including sales tax).

Tacoma Fire Department

Emergency Response Supplies – Respondent will purchase and donate to Tacoma Fire Department’s hazardous materials response team various supplies such as Bio Threat kits, spill neutralizers, sample pump kit, leak sealing kits, and a Chip Management System (CMS) analyzer.

Estimated Cost: \$26,167 (including sales tax).

TOTAL ESTIMATED COST: \$51,645