

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

07 AUG -1 2007
REGIONAL HEARING OF EPA
EPA REGION VI

IN THE MATTER OF:

Mountainair School District
Mountainair, New Mexico

RESPONDENT

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DOCKET NO. TSCA-06-2006-6074

CONSENT AGREEMENT AND FINAL ORDER

The Director, Compliance Assurance and Enforcement Division, United States Environmental Protection Agency (EPA), Region 6 (Complainant) and Mountainair School District (Respondent) in the above-referenced proceeding, hereby agree to resolve this matter through the issuance of this Consent Agreement and Final Order (CAFO).

**I.
PRELIMINARY STATEMENT**

1. The Complainant initiated this proceeding for the assessment of civil penalties pursuant to Section 207(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2647(a), by issuing a Complaint and Notice of Opportunity for Hearing (Complaint), dated January 9, 2007, against Respondent.
2. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint; however, the Respondent neither admits nor denies the specific factual allegations contained in the Complaint.

3. Respondent waives any right to contest the allegations in the Complaint and its right to appeal the Final Order set forth herein. Respondent further waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint.
4. Respondent consents to the issuance of this CAFO and to the assessment and payment of the stated civil penalty in the amount and by the method specified herein.
5. Compliance with all the terms and conditions of this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged in the Complaint.
6. Each party to this action shall bear its own costs and attorney fees.
7. Nothing in this CAFO shall be construed to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.
8. Except as specifically provided in this CAFO, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate or minimize an actual or threatened release of hazardous substances, pollutants, contaminants, at or from Respondent's facility.
9. Respondent has documented efforts to come into compliance with the alleged violations stated in the Complaint and Notice of Opportunity for Hearing. Respondent has also completed all terms of settlement of this CAFO and has come into full compliance with the requirements of the CAFO by correcting the violation(s) alleged in the

Complaint. Respondent's cost incurred to correct the alleged violations of the Complaint and Notice of Opportunity for Hearing has exceeded the adjusted civil penalty.

10. Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement and to execute and legally bind that party to it.
11. This CAFO shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers. Respondent agrees to provide a copy of this CAFO to any purchaser of Respondent or other successor in interest to Respondent.

II.

EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. Paragraphs 1 through 27 of the Complaint are herein incorporated by reference as EPA's Findings of Fact and Conclusions of Law in this matter.

III.

TERMS OF SETTLEMENT


13. Respondent agrees to the issuance of this CAFO, and for the reasons set forth above, Respondent agrees to the assessment of a civil penalty in the amount of two thousand six hundred and seventy-five dollars (\$2,675.00). However, in light of Respondent's documented return to compliance with the alleged violation, and cost incurred to correct the violation, the assessed penalty has been reduced to zero dollars.

14. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the costs incurred in performing the actions described in Paragraphs 9 and 13 of this CAFO.

IT IS SO AGREED.

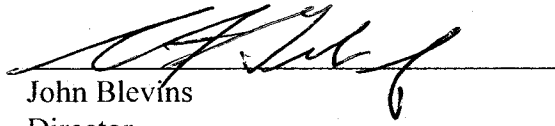
FOR RESPONDENT:

Dated: 7-24-07


Jay Mortensen
Superintendent
Mountainair School District

FOR COMPLAINANT:

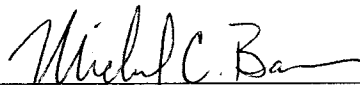
Dated: 7-31-07


John Blevins
Director
Compliance Assurance and
Enforcement Division

IV.
FINAL ORDER

Pursuant to Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case 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 Final Order shall resolve only those causes of action alleged in the Complaint. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated: July 31, 2007



Michael C. Barra
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that the original and one copy of the foregoing Consent Agreement and Final Order (CAFO) were hand delivered to the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct file-stamped copy of the fully executed CAFO was addressed to the following by the service method listed:

CERTIFIED MAIL RETURN RECEIPT REQUESTED: 7004 1160 0003 0358 3906

Jay Mortensen
Superintendent
Mountainair School District
512 North Ross
Mountainair, New Mexico 87036

Date: August 1, 2007

Elvia E. Evering
Elvia E. Evering