



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP - 9 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Wes Senglaub
Safety Department
Berger Transfer & Storage, Inc.
2950 Long Lake Road
Saint Paul, Minnesota 55113

Re: Expedited Settlement Agreement
Emergency Planning and Community Right-to-Know Act Section 312
Payment Docket No. EPCRA-15-ESA-004
Docket No. **EPCRA-05-2015-0025**

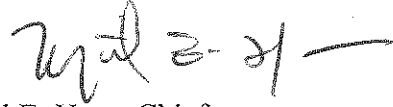
Dear Mr. Senglaub:

Enclosed please find a copy of the fully executed EPCRA Section 312 Expedited Settlement Agreement and Final Order (ESA). The ESA is binding on EPA and Berger Transfer & Storage, Inc. EPA will take no further action against Berger Transfer & Storage, Inc., for the violations cited in the ESA. The ESA requires no further action on your part.

During the inspection on March 10, 2015, it was noted that you had present at this location eighteen floor sweepers that contain electric batteries. It is our understanding that these sweepers were temporarily stored at your facility for another entity. Note that the batteries for these sweepers contain lead and sulfuric acid, both reportable chemicals under the Emergency Planning and Community Right-to-Know Act Section 312. Based on the information provided during the inspection the addition of these sweepers at your facility increased the quantity of lead and sulfuric acid already present in your forklift batteries enough to exceed the reporting thresholds. Therefore, for the calendar year 2015 Tier II report you will need to also report for lead and sulfuric acid.

Please feel free to contact Ruth McNamara at 312-353-3193, or mcnamara.ruth@epa.gov, if you have any questions regarding the enclosed document or if you have any other questions about EPCRA reporting. Thank you for your assistance in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael E. Hans", with a horizontal line extending to the right.

Michael E. Hans, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 W. Jackson Boulevard
Chicago, IL 60604-3590

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

DOCKET NO: EPCRA-05-2015-0025

PAYMENT DOCKET NO: EPCRA-15-ESA-004

This Expedited Settlement Agreement is issued to:
Berger Transfer & Storage, Inc.
2950 Long Lake Road
Saint Paul, Minnesota 55113



for alleged violations of Section 312 of the Emergency Planning and Community Right-To-Know Act.

The United States Environmental Protection Agency, Region 5, and Berger Transfer & Storage, Inc. ("Respondent") have agreed to the settlement of this action before the filing of a complaint. EPA and Respondent (jointly "the Parties") have agreed 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. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement ("ESA") and Final Order. *See* 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)(3).

This ESA is an administrative action for the assessment of civil penalties instituted pursuant to EPA's authority under Sections 325 of the Emergency Planning and Community Right-To-Know Act (EPCRA), 42 U.S.C. § 11045. The Director of the Superfund Division, Region 5, EPA has been delegated the authority to issue an Administrative Complaint seeking the assessment of civil penalties for violations of Section 312 of EPCRA, 42 U.S.C. § 11022. The Regional Administrator for Region 5 of EPA is authorized to issue a Final Order, which concludes this matter pursuant to 40 C.F.R. § 22.18.

ALLEGED VIOLATIONS

EPA alleges that Respondent, owner and/or operator of the facility at 2950 Long Lake Road, Saint Paul, Minnesota failed to timely submit a completed emergency and hazardous chemical inventory form (Tier I or Tier II form as described in 40 C.F.R. § 370.25 and 40 C.F.R. Part 370, Subpart D) for calendar years 2012, 2013, and 2014 as required by Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations at 40 C.F.R. Part 370. Under Section 312 of

EPCRA, 42 U.S.C. § 11022, and the regulations at 40 C.F.R. Part 370, Respondent was required to submit its Tier I or Tier II form for calendar year 2012 on or before March 1, 2013; for calendar year 2013 on or before March 1, 2014; and for calendar year 2014 on or before March 1, 2015.

SETTLEMENT

In consideration of factors including the nature, circumstances, extent, and gravity of the violations; Respondent's prior history of violations; and any other matters as justice may require, EPA and Respondent agree that an appropriate civil penalty to settle this action is \$2,000.00. In signing this ESA, Respondent: (1) admits that Respondent is subject to the requirements of Section 312 of EPCRA; (2) admits that EPA has jurisdiction over Respondent's conduct as alleged herein; (3) neither admits nor denies the factual allegation(s) contained herein; (4) consents to the assessment of this penalty; and (5) waives any right to request a hearing to contest any fact or allegation or appeal the final order contained herein. Respondent consents to, and is bound by, the terms and conditions of this ESA.

By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violation has been corrected; and (2) Respondent is submitting payment of the civil penalty as described below.

Respondent must send a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$ 2,000.00 in payment of the full penalty amount to the following address:

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

The payment docket number of this ESA **must be included on the check.** (The payment docket number is located at the top left corner of this ESA.)

This original ESA and a copy of the check must be sent by certified mail to:

Ruth McNamara
U.S. EPA Region 5
Superfund Division
Chemical Emergency Preparedness and Prevention Section
77 W. Jackson Boulevard, (SC-5C)
Chicago, IL 60604

Upon the issuance of the Final Order, Respondent's correction of the alleged violation, and confirmation of receipt of Respondent's payment of the civil penalty, Respondent's liability

is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of EPCRA or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with EPCRA, the regulations promulgated thereunder, or any other applicable law or requirement.

If the signed original ESA **with an attached copy of the check** is not returned to the **EPA Region 5 office** at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of this ESA (90 days if an extension has been granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified in this ESA.

This ESA is binding on the Parties signing below.

Each Party to this action shall bear its own costs and fees, if any.

Each Person signing this ESA and Final Order 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.

FOR RESPONDENT:

Signature: William Dircks Date: 8/25/2015

Name (print): William Dircks

Title (print): President

Name of facility: Berger Transfer & Stg.

FOR COMPLAINANT:

Richard C. Karl
Richard C. Karl, Director
Superfund Division

Date: 9/2/2015

FINAL ORDER

This Expedited Settlement 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.



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

Date: 4 Sept 2015

In the Matter of: Berger Transfer & Storage, Inc., Saint Paul, Minnesota
Docket No. EPCRA-05-2015-0025

Certificate of Service

I certify that I served a true and correct copy of the foregoing *Expedited Settlement Agreement*, which was filed on September 9, 2015, in the following manner to the addressees:

Copy by Certified Mail

Return Receipt Requested: Wes Senglaub
Safety Department
Berger Transfer & Storage, Inc.
2950 Long Lake Road
Saint Paul, Minnesota 55113


Copy by E-Mail to

Attorney for Complainant Robert Smith
smith.roberth@epa.gov

Copy by E-Mail to

Regional Judicial Officer Ann Coyle
coyle.ann@epa.gov

Dated: September 9, 2015


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

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2640 4802