



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 8
 1595 WYNKOOP STREET
 DENVER, CO 80202-1129
 Phone 800-227-8917
<http://www.epa.gov/region08>

2017 NOV -7 AM 11:35

FILED
 EPA REGION VIII
 HEARING CLERK

DOCKET NO.: EPCRA-08-2017-0001

IN THE MATTER OF:)	
)	
CLOVERDALE FOODS COMPANY)	FINAL ORDER
)	
)	
)	
)	
RESPONDENT)	

Pursuant to 40 C.F.R. § 22.13(b) and §§ 22.18(b)(2) and (3) of EPA’s Consolidated Rules of Practice, the Expedited Settlement Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Expedited Settlement Agreement, effective immediately upon filing this Expedited Settlement Agreement and Final Order.

SO ORDERED THIS 7th DAY OF November, 2017.



 Katherin E. Hall
 Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)
)
)
 Cloverdale Foods Company) **EPCRA-08-2017-0001**
 3015 34th Street NW) **EXPEDITED SETTLEMENT AGREEMENT**
 Mandan, North Dakota 58554) (COMBINED COMPLAINT AND
) CONSENT AGREEMENT)
)
 Respondent)
)

AUTHORITY

1. This Expedited Settlement Agreement (also known as a Combined Complaint and Consent Agreement, hereafter the Agreement), intended to simultaneously commence and conclude this matter, is being entered into by the United States Environmental Protection Agency (the EPA), Region 8, by its duly delegated official, the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, and by Cloverdale Foods Company (Respondent). This matter is authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).
2. The EPA and Respondent agree that the EPA has jurisdiction over this matter pursuant to section 325 of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045.
3. Respondent agrees that the EPA has jurisdiction and venue over the matters contained in this Agreement, however, Respondent neither admits nor denies the EPA's specific factual allegations contained herein.

RESPONDENT

4. Respondent is a "person" as defined by section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
5. Respondent is the owner or operator of a "facility", as defined by section 329(4) of EPCRA, 42 U.S.C. § 11049(4), located at 3015 34th Street NW, Mandan, North Dakota 58554.

ALLEGED VIOLATIONS

6. On December 12, 2016, the EPA inspected Respondent's facility with Respondent's consent.
7. At all times relevant to this matter, the facility stored hazardous chemicals as defined by 29 C.F.R. § 1910.1200.

Cloverdale Foods Company
EXPEDITED SETTLEMENT AGREEMENT

8. Respondent is required to file an annual Tier II inventory report for hazardous chemicals stored in excess of established thresholds. These thresholds are codified at 40 C.F.R. § 370.20(b).
9. Respondent was required to submit its Tier II form for reporting year 2015 on or before March 1, 2016, under section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations at 40 C.F.R. section 370.
10. For reporting year 2015, Respondent stored sulfuric acid at Respondent's facility in an amount equal to or in excess of the threshold quantity. Respondent failed to include sulfuric acid in its Tier II form for reporting year 2015 as required by section 312 of EPCRA, 42 U.S.C. § 11022.
11. For reporting year 2015, Respondent stored sodium hydroxide at Respondent's facility in an amount equal to or in excess of the threshold quantity. Respondent failed to include sodium hydroxide in its Tier II form for reporting year 2015, as required by section 312 of EPCRA, 42 U.S.C. § 11022.
12. By failing to include sulfuric acid and sodium hydroxide in its Tier II form for the reporting year 2015, Respondent violated section 312 of EPCRA, 42 U.S.C. § 11022.

SETTLEMENT

13. The EPA and Respondent agree settlement of this matter is in the public interest, and the EPA and Respondent agree that execution of this Agreement and issuance of a final order without further litigation and without adjudication of any issue of fact or law, is the most appropriate means of resolving this matter.
14. This Agreement contains all terms of the settlement agreed to by the parties.
15. Pursuant to section 325 of EPCRA, 42 U.S.C. § 11045, and based in part on the nature of the alleged violations and other relevant factors, the EPA agrees that an appropriate civil penalty to settle this matter is **FIVE THOUSAND DOLLARS (\$5,000)**.
16. Respondent consents, for the purpose of settlement, to the issuance of a final order and the payment of the civil penalty cited in the foregoing paragraph.
17. Respondent agrees that the penalty specified in this ESA shall not be deductible for purposes of state or federal taxes.
18. By signing this Agreement, Respondent certifies that it has provided payment of the civil penalty in the manner specified below; and releases that penalty to the EPA upon incorporation of this Agreement into a final order.

Cloverdale Foods Company
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19. No later than 15 days from the date of Respondent's receipt of this Agreement, Respondent agrees to pay the civil penalty by sending a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$5,000 to the following address:

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

**The following Payment Number for this Agreement must be included on the check:
ESA-R8-EPCRA-17-001**

20. The signed Agreement and a copy of the check must be sent certified mail to:

U.S. EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
Attn: Steven A. Ramirez, ENF-AT-TP

21. Respondent waives its right to a hearing on any issue of law or fact set forth in this Agreement and knowingly agrees to waive its right to a hearing on this matter under section 325(b)(1)(B) of EPCRA, 42 U.S.C. § 11045(b)(1)(B), and to appeal this matter under EPCRA § 325(f), 42 U.S.C. § 11045(f).
22. This Agreement shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law.
23. This Agreement, upon incorporation into a final order, applies to and is binding upon the EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this agreement.
24. Failure by Respondent to comply with any of the terms of this Agreement shall constitute a breach of this Agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.
25. Nothing in this Agreement shall be construed as a waiver by the EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Agreement.
26. Each undersigned representative of the parties to this Agreement certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this Agreement and to execute and legally bind that party to this Agreement.

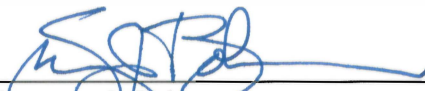
Cloverdale Foods Company
EXPEDITED SETTLEMENT AGREEMENT

27. The parties agree to submit this Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.
28. This Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged in this Agreement.
29. This Agreement shall not in any case affect the EPA's right to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
30. Each party shall bear its own costs and attorney's fees in connection with all issues associated with this Agreement.

UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY, REGION 8,
Office of Enforcement, Compliance and
Environmental Justice

Complainant

Date: 11/6/17

By: 
Suzanne J. Bohan
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

Cloverdale Foods Company

Respondent

Date: 10/19/2017

By: 

plant Engineer
Title

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT AND CONSENT AGREEMENT and FINAL ORDER** in the matter of **CLOVERDALE FOODS COMPANY; DOCKET NO.: EPCRA-08-2017-0001** was filed with the Regional Hearing Clerk on November 7, 2017.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Marc Weiner, Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on November 7, 2017, to:

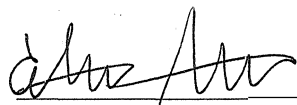
Respondent

Larry Moen
Cloverdale Foods Company
3015 34th St, NW
Mandan, ND 58554

And emailed to:

Jessica Chalifoux
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

November 7, 2017



Elizabeth Archer
Acting Regional Hearing Clerk