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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 N. 5TH STREET
KANSAS CITY, KANSAS 66101
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF:)

Omaha Standard Incorporated)
2401 West Broadway)
Council Bluffs, Iowa 51501)

EPA ID No. IAD 007262074)

Respondent.)

Proceeding under Section 3008(a) and (g) of)
the Resource Conservation and Recovery Act,)
as amended, 42 U.S.C. § 6928(a) and (g).)

CONSENT AGREEMENT AND
FINAL ORDER

Docket No. RCRA-07-2005-0396

I. PRELIMINARY STATEMENT

This proceeding was initiated on or about September 29, 2005, when the United States Environmental Protection Agency, Region VII ("Complainant" or "EPA") issued a Complaint, Compliance Order and Notice of Opportunity for Hearing ("Complaint") to Omaha Standard Incorporated ("Respondent"). Pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984 (hereinafter known as RCRA), Title 42 United States Code (U.S.C.), Section 6901 et seq., the Complainant sought civil penalties for alleged violations of 42 U.S.C. § 6925 and 40 Code of Federal Regulations (C.F.R.), Parts 262 and 265.

The Complainant and Respondent subsequently entered into negotiations in an attempt to settle the allegations contained in the Complaint. This Consent Agreement and Final Order (CAFO) is the result of such negotiations and resolves all issues relating to the administrative claims arising from the allegations in the Complaint.

II. CONSENT AGREEMENT

1. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms of the Final Order. The terms of this Consent Agreement and the Final Order shall not be modified except by a subsequent written agreement between the parties.

2. Respondent admits the jurisdictional allegations of the Complaint and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order set forth below.
3. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in the Complaint.
4. Respondent waives its right to further contest the factual allegations and legal conclusions set forth in the Complaint in this or subsequent proceedings to enforce the terms of this Consent Agreement and Final Order, and agrees not to appeal the Final Order set forth below.
5. Respondent explicitly waives its right to a hearing on any issue of fact or law set forth in EPA's Complaint.
6. Respondent and EPA each agree to bear their own costs and attorneys' fees.
7. Respondent agrees that, in settlement of the claims alleged in the Complaint, Respondent shall pay a mitigated civil penalty of \$7,500 as set forth in Paragraph 11 of the Final Order and Respondent shall complete the Compliance Actions set forth in Paragraph 15 of this Consent Agreement and Final Order.
8. This Consent Agreement and Final Order shall be effective upon entry of the Final Order by the Regional Judicial Officer for EPA Region VII. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.
9. This Consent Agreement and the Final Order shall remain in full force and effect until Complainant's representative designated in Paragraph 16 of the Final Order provides Respondent with written notice, in accordance with Paragraph 25 of the Final Order, that all requirements hereunder have been satisfied.
10. Each signatory of this Consent Agreement and Final Order certifies he or she is fully authorized to enter into the terms of the Consent Agreement and Final Order.

III. FINAL ORDER

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and according to the terms of the Consent Agreement set forth above, IT IS HEREBY ORDERED THAT:

A. Payment of Civil Penalty

11. Within thirty (30) days of the effective date of this Final Order, Respondent shall pay a mitigated civil penalty of \$7,500.

12. Payment of the penalty shall be by cashier or certified check made payable to "Treasurer of the United States" and remitted to:

Regional Hearing Clerk
United States Environmental Protection Agency
Region VII
c/o Mellon Bank
P.O. Box 371099M
Pittsburgh, Pennsylvania 15251

The Respondent shall reference the Docket Number, RCRA-07-2005-0396, on the check. A copy of the check shall also be mailed to:

Alex Chen
Office of Regional Counsel
United States Environmental Protection Agency
Region VII
901 N. 5th Street
Kansas City, KS 66101

13. Failure to pay any portion of the civil penalty on the date the same is due may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest thereon at the rate of five percent (5%) per annum.

14. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Consent Agreement and Final Order shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

B. Compliance Actions

15. (A) No later than April 15, 2006, Respondent shall provide EPA with a copy of Respondent's Initial Notification of Regulated Waste Activity (EPA Form 8700-12) for Respondent's operations at Respondent's current facility at 3501 South 11th Street in Council Bluffs, Iowa.

(B) No later than April 15, 2006, Respondent shall provide EPA with a copy of the Respondent's procedures in place at the current facility for weekly inspections of hazardous waste storage containers. Such inspections must look for leaks and for deterioration caused by corrosion or other factors, and must ensure that these containers are properly closed, labeled and dated.

(C) In addition, during a period of one (1) year after the effective date of this Order, Respondent shall provide two semi-annual updates to EPA on Respondent's generator status at that time. These updates shall be due on: September 15, 2006 and March 15, 2007. If Respondent operates at Small Quantity Generator status during this time, Respondent shall also submit any completed inspection logs or other documents that demonstrate that the required weekly inspections of hazardous waste storage containers were conducted.

16. Respondent shall submit all documents and other correspondence required to be submitted to EPA by this Final Order to:

Deborah Finger
Air, RCRA and Toxics Division
U.S. Environmental Protection Agency
Region VII
901 North Fifth Street
Kansas City, Kansas 66101

17. EPA shall submit any notices or correspondence related to this Consent Agreement and Final Order, if needed, to:

James Moser
Registered Agent
Omaha Standard Inc.
2401 West Broadway
Council Bluffs, Iowa 51501

and

Michael S. Mostek, Esq.
Koley Jessen P.C.
One Pacific Place, Suite 800
1125 South 103 Street
Omaha, Nebraska 68124-1079.

C. Parties Bound

18. This Final Order shall apply to and be binding upon EPA and Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

D. Reservation of Rights

19. This Consent Agreement and Final Order addresses all administrative matters alleged in EPA's September 29, 2005 Complaint, Docket No. RCRA-07-2005-0396. EPA reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

20. Notwithstanding any other provision of this Consent Agreement and Final Order, EPA reserves the right to enforce the terms of the Final Order by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed thirty-two thousand five hundred dollars (\$32,500) per day per violation pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law.

21. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this Consent Agreement and Final Order.

22. Except as expressly provided herein, including the provisions of Section C of this Consent Agreement and Final Order, nothing in this Consent Agreement and Final Order shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants or contaminants found at, taken to, or taken from Respondent's facility.


23. Notwithstanding any other provisions of the Consent Agreement and Final Order, an

enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the future handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

24. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

25. The provisions of this Consent Agreement and Final Order shall be deemed satisfied upon a written determination by Complainant that Respondent has fully implemented the actions required in the Final Order to EPA's satisfaction.

For the Respondent:

By: 
Printed Name: JAMES D. MOSER
Title: CO-PRESIDENT

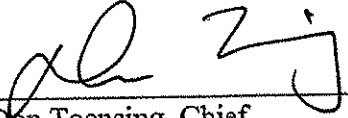
4/6/06
Date

For the Complainant:

The United States Environmental Protection Agency


Alex Chen
Assistant Regional Counsel

April 10, 2006
Date

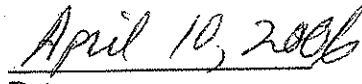

Don Toensing, Chief
RCRA Enforcement and State Programs Branch
Air, RCRA and Toxics Division

4-10-06
Date

IT IS SO ORDERED. This Final Order is effective upon its final entry by the Regional Judicial Officer.



Robert Patrick
Regional Judicial Officer



Date

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Alex Chen
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

James Moser
Registered Agent
Omaha Standard Inc.
2401 West Broadway
Council Bluffs, Iowa 51501

and

Michael S. Mostek, Esq.
Koley Jessen P.C.
One Pacific Place, Suite 800
1125 South 103 Street
Omaha, Nebraska 68124-1079


Copy by Facsimile and
First Class Pouch Mail to:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

and

The Honorable William B. Moran
Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

Dated: 4/10/06


Kathy Robinson
Regional Hearing Clerk