

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

07/17 AM 9:39
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

In the Matter of)
)
Missouri Tie and Timber, Inc.) Docket No.
Reynolds, Missouri) EPCRA-07-2006-0223
)
Respondent.)

CONSENT AGREEMENT AND FINAL ORDER

On June 26, 2006, the United States Environmental Protection Agency, Region 7 (Complainant or EPA) filed a Complaint and Notice of Opportunity for Hearing (Complaint) in this matter pursuant to Section 325 of the Emergency Planning and Community Right to Know Act of 1986 (EPCRA), 42 U.S.C. § 11045. The Complaint alleged violations of Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated thereunder at 40 C.F.R. Part 372, and proposed a civil penalty in the amount of \$130,900.00 against Missouri Tie and Timber, Inc., Reynolds, Missouri (Respondent).

CONSENT AGREEMENT

1. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in the Complaint. Respondent neither admits nor denies the factual allegations set forth in the Complaint.

2. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth in the Complaint.

3. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

4. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of Respondent's knowledge, Respondent's Reynolds, Missouri facility is presently in compliance with all requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, and all implementing regulations, 40 C.F.R. Part 372.

5. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of the civil penalty as set forth below.

6. Respondent understands that the failure to pay any portion of the civil penalty assessed herein in accordance with the provisions of this Order may result in commencement of a civil action in Federal District Court to recover the total penalty, together with interest thereon at the applicable statutory rate.

7. This Consent Agreement and Final Order settles all civil administrative claims for the EPCRA violations alleged in the Complaint. Complainant reserves the right to take any enforcement action with respect to any other violations of EPCRA or any other applicable law.

FINAL ORDER

Pursuant to the provisions of EPCRA, 42 U.S.C. 11001 *et seq.*, and based upon the information set forth in this Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a civil penalty of ninety-one thousand, six hundred thirty dollars (\$91,630.00) no later than thirty days after the entry of this Final Order. Payment shall be by cashier's or certified check, and shall be made payable to the "United States Treasury" and remitted to:

EPA Region 7
Attn: Regional Hearing Clerk
c/o Mellon Bank
Post Office Box 360748M
Pittsburgh, Pennsylvania 15251.

Copies of the check shall also be sent to:

Belinda L. Holmes
EPA Region 7
Office of Regional Counsel
901 North Fifth Street
Kansas City, Kansas 66101; and

Regional Hearing Clerk
EPA Region 7
901 North Fifth Street
Kansas City, Kansas 66101.

3. 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.

4. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

COMPLAINANT:
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By 
Belinda L. Holmes
Senior Assistant Regional Counsel

Date 1/8/07

RESPONDENT:
Missouri Tie and Timber, Inc.
Reynolds, Missouri

By Junior Flowers
Junior Flowers

Title President

Date 12-27-2006

IT IS SO ORDERED. This Final Order shall become effective
immediately.



Robert Patrick
Regional Judicial Officer

Date January 17, 2007

IN THE MATTER OF Missouri Tie and Timber, Inc., Respondent
Docket No. EPCRA-07-2006-0223

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:

Belinda L. Holmes
Senior Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by U.S. Certified Mail,
Return Receipt Requested, to:

L. Dwayne Hackworth, Esq.
Hackworth, Hackworth & Ferguson, LLC
1401 North Main, Suite 200
Piedmont, Missouri 63957

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 Barbara A. Gunning
Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

Dated: 1/17/07


Kathy Robinson
Hearing Clerk, Region 7

MEMORANDUM

TO: File
In the matter of Missouri Tie and Timber, Inc.
Docket No. EPCRA-07-2006-0223

FROM: Belinda Holmes 
Senior Assistant Regional Counsel

DATE: January 16, 2007

SUBJECT: Correction of error, page 1 of Consent Agreement and Final Order

On Thursday, January 11, I received a call from Kathy Robinson, the Regional Hearing Clerk. She told me that the Regional Judicial Officer (RJO) had noticed that on the first page of the above Consent Agreement and Final Order (CAFO) there was a reference to "First Amended Complaint" but there was no amended Complaint in the documents on file with the Hearing Clerk.

The reference to a "First Amended Complaint" was a mistaken reference, the result of using a previous order as a template for the order in this case. There is no amended Complaint in this matter. The RJO requested that the matter be clarified before he approved the document.

I spoke on the telephone with Mr. L. Dwayne Hackworth, the attorney for Respondent, on Friday, January 12, and explained the situation. Mr. Hackworth authorized me to correct the error and substitute a new first page. I made the correction and will re-submit the CAFO to the RJO on Tuesday, January 16, 2007.