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HEARINGS CLERK
EPA -- REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	
)	DOCKET NO. EPCRA-10-2014-0162
Gly-Tek, Inc.,)	
)	CONSENT AGREEMENT
Twin Falls, Idaho,)	
)	
Respondent.)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 325 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045, and Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9609.

1.2. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 109 of CERCLA, 42 U.S.C. § 9609, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and Gly-Tek, Inc. (“Respondent”) agrees to issuance of, the Final Order attached to this Consent Agreement (“Final Order”).

II. PRELIMINARY STATEMENT

2.1. On September 9, 2014, EPA initiated this proceeding against Respondent pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 109 of CERCLA, 42 U.S.C. § 9609, by issuing an Administrative Complaint. On September 23, 2014, EPA issued an Amended Complaint, served on Respondent on October 3, 2014.

2.2. The complete factual and jurisdictional basis for proposing the assessment of a civil penalty is set forth in the Amended Complaint and is incorporated herein by reference.

2.3. The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 109 of CERCLA, 42 U.S.C. § 9609, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of EPCRA and CERCLA are proposed to be assessed.

III. TERMS OF SETTLEMENT

3.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

3.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

3.3. As required by Section 325(b)(1)(C) of EPCRA, 42 U.S.C. § 11045(b)(1)(C), and Section 109(a)(3) of CERCLA, 42 U.S.C. § 9609(a)(3), EPA has taken into account the nature, circumstances, extent and gravity of the violation, and with respect to Respondent, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require. After considering these factors, EPA has determined and Respondent agrees that an appropriate

penalty to settle this action is \$25,000, \$5,000 of which reflects violations of CERCLA and \$20,000 of which reflects violations of EPCRA.

3.4. Respondent agrees to pay the total civil penalty set forth in Paragraph 3.3 according to the following schedule: a payment of \$6,250 within 30 days of the effective date of the Final Order; then a payment of \$6,437.50, which includes \$187.50 in interest, within 6 months of the effective date of the Final Order; then a payment of \$6,375, which includes \$125 in interest, within 12 months of the effective date of the Final Order; and a final payment of \$6,312.50, which includes \$62.50 in interest, within 18 months of the effective date of the Final Order.

3.5. Payment under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action. Respondent must also include a note with the first payment indicating that \$5,000 is for the CERCLA penalty and \$1,250 is for the EPCRA penalty. Respondent must include a note with the remaining three payments indicating that the CERCLA penalty has been paid in full and that the payment amount on the check is for the EPCRA penalty and interest.

3.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 3.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-158
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
smith.candace@epa.gov

Suzanne Powers
U.S. Environmental Protection Agency
Region 10, Washington Operations Office
300 Desmond Dr. S.E., Suite 102
Lacey, WA 98503
powers.suzanne@epa.gov

3.7. If Respondent fails to pay any portion of the penalty assessed by this Consent Agreement and the Final Order in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action under Section 325(f)(1) of EPCRA, 42 U.S.C. § 11045(f)(1), and/or Section 109 of CERCLA, 42 U.S.C. § 9609, to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below.

3.8. If Respondent fails to pay any portion of the penalty assessed by this Consent Agreement and the Final Order in full by its due date, Respondent shall also be responsible for payment of the following amounts:

3.8.1. Interest. Pursuant to 31 U.S.C. § 3717(a)(1), any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order contained herein.

3.8.2. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the assessed penalty is more than 30 days past due.

3.8.3. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the assessed penalty that is more than 90 days past due, which nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

3.9. The penalty described in Paragraph 3.3, including any additional costs incurred under Paragraph 3.8, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

3.10. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

3.11. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violations alleged in the Amended Complaint.

3.12. Except as described in Paragraph 3.8, each party shall bear its own costs and attorneys fees in bringing or defending this action.

3.13. Respondent expressly waives any right to contest the allegations contained in the Amended Complaint and to appeal the Final Order.

3.14. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

3.15. Respondent consents to the issuance of any specified compliance or corrective action order, and to any stated permit action.

3.16. The above provisions in Part IV are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

30 - Oct - 14

FOR RESPONDENT:

DA Brose

David Brose, President
Gly-Tek, Inc.

DATED:

11/18/2014

FOR COMPLAINANT:

Edward J. Kowalski

EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)
Gly-Tek, Inc.,) DOCKET NO. EPCRA-10-2014-0162
Twin Falls, Idaho,) **FINAL ORDER**
Respondent.)

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under EPCRA and CERCLA for the violations alleged in the Amended Complaint. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall 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 does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of EPCRA and CERCLA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 3rd day of December 2014.


M. SOCORRO RODRIGUEZ
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Gly-Tek, Inc., Docket No.: EPCRA-10-2014-0162**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

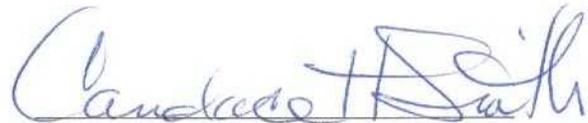
The undersigned certifies that a true and correct copy of the document was delivered to:

Kris Leefers, Esquire
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-158
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

David Brose
President
Gly-Tek, Inc.
P.O. Box 1506
Twin Falls, Idaho 83301

DATED this 5th day of Dec., 2014.



CANDACE H. SMITH
Regional Hearing Clerk
EPA Region 10

