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UNITED STATES REGIONAL HEARING CLERK
ENVIRONMENTAL PROTECTION AGENCY EPA REGION VI
REGION 6
DALLAS, TX

IN THE MATTER OF:

DWD INTERNATIONAL, LLC
2033 Johanna Dr.
Houston, Texas 77055

RESPONDENT
EPA ID TXR00039552

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Consent Agreement and Final Order
USEPA Docket No. RCRA-06-2015-0917

CONSENT AGREEMENT AND FINAL ORDER

I.
PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order ("CAFO") is entered into by the United States Environmental Protection Agency, Region 6 ("EPA" or "Complainant") and Respondent, DWD International, LLC ("DWD" or "Respondent"), and concerns the facility located at 2033 Johanna Dr., Houston, Texas 77055 (the "Facility").
2. Notice of this action has been given to the State of Texas, under Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
3. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.

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4. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.
5. The CAFO resolves only those violations which are alleged herein.
6. The Respondent consents to the issuance of the CAFO hereinafter recited, consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO, and consents to the specific stated compliance order.

II.
JURISDICTION

7. This CAFO is issued by the EPA pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928, as amended by the Hazardous and Solid Waste Amendments of 1984 ("HSWA") and is simultaneously commenced and concluded through the issuance of this CAFO under 40 Code of Federal Regulations ("C.F.R.") §§ 22.13(b) and 22.18(b)(2) and (3).
8. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by the EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this CAFO, and agrees not to contest the validity of this CAFO or its terms or conditions.

III.
FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. Respondent is an authorized limited liability company in the State of Texas, authorized on September 10, 2009, and is located at 2033 Johanna, Dr., Houston, Texas 77055.
10. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15); and 30 TEX.ADMIN.CODE § 3.2(25), [40 C.F.R. § 260.10].
11. Respondent's Registered Agent for service in the State of Texas is Gerald W. Scott, 2033 Johanna Dr., Houston, Texas 77055.
12. DWD owns and/or operates the Facility at which it engages in the manufacturing of oil and gas field machinery and equipment.
13. During the period of May 2014 through October 2014, EPA conducted a RCRA investigation and record review ("Investigation") of DWD's performance as a generator of hazardous waste.
14. In May 2014, EPA conducted site visits at several Treatment, Storage, and Disposal Facilities ("TSDs") and pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927 obtained additional information on DWD's hazardous wastes that it offered for transport and treatment ("Responses").
15. During the Investigation and review of the Responses, EPA discovered that DWD, at a minimum, generated and offered for transport and treatment the following hazardous waste, during 2011 through 2014:

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- i. 2011- 28,181 kg of hazardous wastes, having the hazardous waste characteristic of corrosivity (D002);
- ii. 2012- 44,375 kg of hazardous waste, having the hazardous waste characteristic of ignitability (D001) and corrosivity (D002) and toxicity for methyl ethyl ketone (D035). This waste stream is described also as a listed hazardous waste from non-specific sources- non-halogenated solvents, with the waste code F005; and
- iii. 2013- 23,750 kg of hazardous waste, having the hazardous waste characteristic of ignitability (D001) and corrosivity (D002) and toxicity for methyl ethyl ketone (D035). This waste stream is described also as a listed hazardous waste from non-specific sources- non-halogenated solvents, with the waste code F005; and also 24,500 kg of hazardous waste, having the hazardous waste characteristic of ignitability (D001) and corrosivity (D002) and toxicity for methyl ethyl ketone (D035). This waste stream is described also as a listed hazardous waste from non-specific sources- non-halogenated solvents, with the waste code F005.

16. The waste streams identified in Paragraph 15 are hazardous waste as defined in

30 TEX.ADMIN.CODE § 335.1 (69), [40 C.F.R. § 261.21, 261.22, 261.24, and 261.31].

17. From the Investigation, EPA determined that during the period of 2011 through 2014, DWD generated the hazardous waste streams identified in Paragraph 15 in quantities that exceeded the threshold amount of 1,000 kilograms of hazardous waste per month, which qualifies DWD for

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the large quantity generator status as established under 30 TEX.ADMIN.CODE, Chapter 335, Subchapter C, [40 C.F.R. § 262].

18. The Facility is a “solid waste management facility” within the meaning of Section 1004(29) of RCRA, 42 U.S.C. § 6903(29); a “facility” within the meaning of 30 TEX.ADMIN.CODE § 335.1(59), [40 C.F.R. § 260.10]; and a “hazardous waste management facility” within the meaning of 30 TEX.ADMIN.CODE § 335.1(71).
19. DWD is a “generator” of “hazardous wastes” at the Facility, as those terms are defined in 30 TEX ADMIN.CODE §§ 335.1(65) & (69), [40 C.F.R. § 260.10].
20. As a generator of hazardous waste, DWD is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth at 30 TEX.ADMIN.CODE, Chapter 335, Subchapters C and F, [40 C.F.R Parts 262 and/or 270].

Claim i. Notification Requirements

21. The allegations in Paragraphs 1-20 are realleged and incorporated herein by reference.
22. Within the meaning of 30 TEX.ADMIN.CODE § 335.1 and 40 C.F.R. § 260.10, DWD is a “generator” of hazardous waste.
23. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), any person generating a characteristic or listed hazardous waste shall file with the Administrator or authorized State a notification stating the location and general description of such activity and the identified or listed hazardous wastes handled by such person.

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24. At the time of the Investigation, DWD had not filed with the Administrator or with the authorized State an adequate notification of hazardous waste activities in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

Claim ii. Failure to Operate within Its Stated Generator Status

25. The allegations in Paragraphs 1-24 are realleged and incorporated herein by reference.

26. During the Investigation, EPA determined that DWD declared its generator status as a conditionally exempt small quantity generator (“CESQG”).

27. Pursuant to 30 TEX.ADMIN.CODE § 335.78(b) and 40 C.F.R. § 261.5(b), as long as a CESQG generator complies with the applicable requirement under 30 TEX.ADMIN.CODE §§ 335.78(e), (f), (g) and (j) and 40 C.F.R. §§ 261.5 (e), (f), (g) and (j) the generator’s hazardous waste is not subject to regulation under 30 TEX.ADMIN.CODE, Chapter 335, Subchapters C-H and O; 40 C.F.R. Parts 262 through 268; 40 C.F.R. Parts 270 and 124; and the requirements of Section 3010 of RCRA, 42 U.S.C. § 6930.

28. During the period of 2011 through 2014, DWD exceeded its declared CESQG status and for the months such hazardous waste remained onsite, operated as a large quantity generator in violation of one or more of the requirements for large quantity generators under 30 TEX.ADMIN.CODE, Chapter 335, Subchapter C, [40 C.F.R. § 262.34].

Claim iii. Failure to file Biennial Reports

29. The allegations in Paragraphs 1-28 are realleged and incorporated herein by reference.

30. Pursuant to 30 TEX.ADMIN.CODE § 335.71, [40 C.F.R. § 262.41], a generator who ships any hazardous waste off-site for treatment, storage and/or disposal, must prepare and submit

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a Biennial Report to EPA's Regional Administrator, and to the TCEQ, by March 1 of each even-numbered year in addition to the annual reporting, which is required under 30 TEX.ADMIN.CODE § 335.9.

31. At all times relevant to this CAFO, the EPA and/or the TCEQ did not receive the requisite number of Biennial Reports that DWD was required to file in violation of 30 TEX.ADMIN.CODE §§ 335.9 and 335.71, [40 C.F.R. § 262.41].

IV.
COMPLIANCE ORDER

32. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within thirty (30) calendar days of the effective date of this CAFO, Respondent shall provide in writing the following:

- A. Respondent shall certify that it has assessed all its solid waste streams to determine the accurate waste codes and has developed and implemented standard operating procedures ("SOP") to ensure that DWD is operating in compliance with RCRA and the regulations promulgated thereunder, including, but not limited to, procedures for: (a) making hazardous waste determinations; (b) managing hazardous wastes; and (c) reporting, transporting, and disposing of hazardous waste;
- B. Respondent shall certify that it has accurately and adequately complied with its RCRA Section 3010 Notification; and
- C. Respondent shall provide, with its certification, a copy of Respondent's SOPs as described in subparagraph A above.

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33. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of DWD and shall include the following certification:

“I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Copies of all documents required by this CAFO shall be sent to the following:

U.S. Environmental Protection Agency
Compliance Assurance and Enforcement Division
Hazardous Waste Enforcement Branch
Compliance Enforcement Section (6EN-HC)
1445 Ross Avenue
Dallas, TX 75202-2733
Attn: Dale Thrush

V.
TERMS OF SETTLEMENT

i. **Penalty Provisions**

34. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged

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violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of Ninety-One Thousand Seven Hundred and Seventy-Three Dollars (\$91,773.00).

35. The total penalty shall be paid within thirty (30) calendar days of the effective date of this CAFO, made payable to the Treasurer United States.

36. The following are Respondent's options for transmitting the payments:

Regular Mail, U.S. Postal Mail (including certified mail) or U.S. Postal Service Express

Mail, the check should be remitted to:

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

Overnight Mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Bank
Government Lockbox 979077
US EPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

Wire Transfer:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

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The case name and docket number (In the Matter of DWD INTERNATIONAL, LLC, Docket No. RCRA-06-2015-0917) shall be clearly documented on or within your chosen method of payment to ensure proper credit.

37. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

Mark Potts, Associate Director
Hazardous Waste Enforcement Branch (6EN-H)
Compliance Assurance and Enforcement Division
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733
Attention: Dale Thrush

Your adherence to this request will ensure proper credit is given when penalties are received by EPA.

38. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of process and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

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Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

ii. Costs

39. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

iii. Termination and Satisfaction

40. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall so certify in writing and in accordance with the certification language set forth in Section IV (Compliance Order), Paragraph 33. Unless the EPA, Region 6 objects in writing within sixty

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(60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

iv Effective Date of Settlement

41. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

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**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT
AGREEMENT AND FINAL ORDER:**

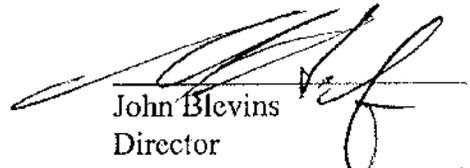
FOR THE RESPONDENT:

Date: MARCH 10, 2015


DWD INTERNATIONAL, LLC

FOR THE COMPLAINANT:

Date: MAR 13 2015


John Blevins
Director
Compliance Assurance and
Enforcement Division

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FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 CFR Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case 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 shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 CFR § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 4-15-2015


Regional Judicial Officer

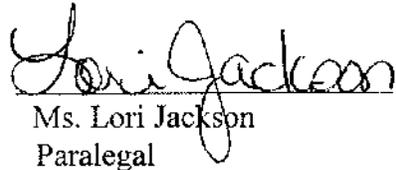
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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of April, 2015, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method identified below:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED 70140150000024538882

DWD INTERNATIONAL, LLC
Mr. Gary McNary
Environmental Manager
DWD Engineering
2033 Johanna Dr.
Houston, TX 77055


Ms. Lori Jackson
Paralegal