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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

In the matter of)	U.S. EPA Docket No.
)	RCRA 09-2008-0002
)	
Concorde Garment)	CONSENT AGREEMENT
Manufacturing Corp.)	AND FINAL ORDER
)	
TTR000128744)	
)	
<u>Respondent.</u>)	

CONSENT AGREEMENT

A. INTRODUCTION

1. This civil administrative enforcement action was initiated pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22. Complainant is the United States Environmental Protection Agency, Region IX ("EPA"). Respondent is Concorde Garment Manufacturing Corp., based in Saipan ("Respondent" or "CGMC").
2. This action commenced with the issuance and filing of a Determination of Violation, Compliance Order and Notice of Right to Request a Hearing ("Complaint") on October 24, 2007 under docket number RCRA 09-2008-0001, which subsequently was corrected to RCRA 09-2008-0002. The Complaint alleged that Respondent violated Section 3002 of RCRA, 42 U.S.C. § 6922, Section 3004, 42 U.S.C. § 6924, Section 3005, 42 U.S.C. § 6925, and regulations adopted pursuant thereto.

B. ADMISSIONS AND WAIVERS

3. Complainant, the United States Environmental Protection Agency, Region IX, and Respondent, Concorde Garment Manufacturing Corp., have agreed that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order (CA/FO), pursuant to 40 C.F.R. Sections 22.13 and 22.18, without further litigation, is the most appropriate means of resolving this matter.
4. For purposes of this proceeding, Respondent admits and agrees that the EPA Administrator and Region IX Administrator have jurisdiction and authority over the subject matter of the action commenced in this CA/FO and over Respondent pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and 40 C.F.R. §§ 22.4 and 22.37. Further, for the purposes of this proceeding, Respondent admits to the jurisdictional allegations of facts and law set forth in the Complaint. Respondent consents to and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.
5. Respondent neither admits nor denies any allegations of fact or law set forth in the Complaint. Respondent hereby waives any rights Respondent may have to contest the allegations set forth in the Complaint, waives any rights Respondent may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in the Complaint, including without limitation a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and hereby consents to the issuance of this CA/FO without adjudication. In addition, Respondent hereby waives any rights Respondent may have to appeal the Final Order attached to this Consent Agreement and made part of this CA/FO.

C. CIVIL PENALTY

6. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 and the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, (see 61 Fed. Reg. 69360 (Dec. 31, 1996)), authorizes a civil penalty of up to TWENTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$27,500) per day for violations of Subtitle C of RCRA, 42 U.S.C. § 6921 et seq. occurring on or after January 31, 1997 but before March 16, 2004, and a penalty of up to THIRTY-TWO THOUSAND, FIVE HUNDRED DOLLARS (\$32,500) per day for violations of Subtitle C of RCRA, 42 U.S.C. § 6921 et seq., occurring after March 15, 2004. Based upon the facts alleged herein and upon those factors which the Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. §6928(a)(3), and the June 2003 RCRA Civil Penalty Policy, and the EPA Supplemental Environmental Project Policy ("SEP Policy"), the Complainant proposes that the Respondent be assessed and Respondent agrees to pay, FIFTEEN THOUSAND TWO HUNDRED DOLLARS (\$15,200.00) as the civil penalty for the violations alleged herein.

D. SUPPLEMENTAL ENVIRONMENTAL PROJECT

7. As part of the settlement of this enforcement action, Respondent shall perform a Supplemental Environmental Project (SEP). Performance of the tasks set forth in this Section shall constitute satisfactory performance of the SEP.
8. Respondent shall implement a SEP to provide alternative power at Saipan's Southern High School, as listed below and as further detailed in the Preliminary Proposal for Supplemental Environmental Project dated June 10, 2008, Attachment A to this CA/FO:
 - a. Research Wind Power Systems and Equipment
 - b. Select Preferred System and Present to School Administration
 - c. Design System
 - d. Purchase System Components, Acquire Construction Permits
 - e. Construct/Install System
 - f. Provide Operations Training to School Staff & Students
9. Respondent shall expend at least FIFTY-SIX THOUSAND DOLLARS (\$56,000.00) on the SEP.
10. Respondent shall complete all SEP activities within six (6) months of the Effective Date of this CA/FO.
11. Within eight (8) months after the Effective Date of this CA/FO, Respondent shall certify to EPA in writing that it has completed all SEP activities. At the same time, Respondent shall provide EPA an accounting showing the amount Respondent expended for the implementation of the SEP, and submit to EPA substantiating documentation, including but not limited to invoices, purchase orders, checks or receipts. The signatory for Respondent shall certify under penalty of law that this certification is based upon true, accurate and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.
12. In the event that Respondent publicizes the SEP, Respondent shall state in a prominent manner that the project is part of a settlement of an enforcement action by EPA.
13. For Federal Income Tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.
14. In signing this CA/FO, Respondent hereby certifies that it is not required by any federal, state or local law or regulation to perform or develop the SEP described above; nor is Respondent required by agreement, grant or as injunctive relief in this or any other case (other than in this CA/FO) to perform or develop this SEP. Respondent further certifies that

it has not received, and is not presently negotiating to receive, credit in any other enforcement action for this SEP; nor will Respondent realize any profit, credit or tax deduction attributable to or associated with this SEP.

E. PARTIES BOUND

15. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns and upon all persons acting under or for Respondent, until such time as the civil penalty required under Section F has been paid and either (1) the SEP required under Section D has been fully completed, or (2) in the event of failure to complete the SEP in full, satisfactory good-faith compliance pursuant to Paragraph 25 has been made, or stipulated penalties in accordance with Paragraphs 24 or 26 of this CA/FO have been paid. At such time as those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.
16. No change in ownership or corporate, partnership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
17. Respondent shall give notice of this CA/FO to any successor in interest prior to transfer of ownership or operation of a substantial portion of Respondent's assets and shall notify EPA within seven (7) days prior to such transfer, until the termination of this CA/FO.
18. The undersigned representative of Respondent hereby certifies s/he is fully authorized by Respondent to enter into this CA/FO, to execute and to legally bind Respondent to it.

F. PAYMENT OF CIVIL PENALTY

19. Respondent consents to the assessment of and agrees to pay a civil penalty of Fifteen Thousand Two Hundred Dollars (\$15,200.00) in full settlement of the civil penalty claims made in the CA/FO.
20. Respondent shall submit payment of the Fifteen Thousand Two Hundred Dollars (\$15,200.00) civil penalty within thirty (30) calendar days of the Effective Date of this CA/FO. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. All payments shall indicate the name of the Facility, EPA identification number of the Facility, the Respondent's name and address, and the EPA docket number of this action. Payment shall be made by check, payable to the U.S. Environmental Protection Agency. Note on the check the title & docket number of the case. Mail check with a copy of the settlement.

By U.S. Mail:
US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center

PO Box 979077
St. Louis, MO 63197-9000

By overnight mail:

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

Alternatively, payment may be made by wire transfer, ACH, or online payment, pursuant to instructions at http://www.epa.gov/cfo/finservices/make_a_payment_cin.htm.

21. At the time payment is so made, a copy of the check or payment documentation shall be sent to:

Danielle Carr
Regional Hearing Clerk (ORC-1)
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

and

Clint Seiter (WST-3)
Waste Management Division
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

22. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), the payment must be received within thirty (30) calendar days of the Effective Date of this CA/FO to avoid additional charges. If payment is not received within thirty (30) calendar days, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. §13.11. A late penalty charge of \$15.00 will be imposed after thirty (30) calendar days with an additional \$15.00 charge for each subsequent 30-day period. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) calendar days of the due date. Respondent further will be liable for stipulated penalties as set forth below for any payment not received by its due date.

G. DELAY IN PERFORMANCE AND STIPULATED PENALTIES

23. In addition to the interest and per annum penalties described above, in the event that Respondent fails to pay the full amount of the penalty within the time specified in Section F, Respondent agrees to pay Complainant a stipulated penalty in the amount of up to ONE HUNDRED DOLLARS (\$100.00) for each day the default continues.
24. Except as provided in paragraph 25 immediately below, in the event that Respondent fails to complete the SEP as required by this CA/FO, including all attachments, Respondent shall pay a stipulated penalty of SIXTY THOUSAND DOLLARS (\$60,000.00).
25. If Respondent fails to complete the SEP as required by the CA/FO, including all attachments, but Respondent (a) has made good faith and timely efforts to complete the SEP; and (b) certifies, with supporting documentation, that at least 90% of the amount of money which was required by this CA/FO to be spent was expended on the SEP, no stipulated penalty will apply.
26. If Respondent completes the SEP in accordance with the requirements of this CA/FO, including all attachments, but Respondent spent less than 90 percent of the amount of money required by this CA/FO to be spent for the SEP, Respondent shall pay a stipulated penalty of ELEVEN THOUSAND DOLLARS (\$11,000.00).
27. If Respondent satisfactorily completes the SEP in accordance with the requirements of this CA/FO, including all attachments, and spends at least 90% of the amount of money required by this CA/FO to be spent for the SEP, no stipulated penalty will apply.
28. The determination of whether Respondent has satisfactorily completed the SEP set forth in Section D of this CA/FO and the determination of whether Respondent has made a good faith, timely effort to implement the SEP for purposes of this Section, are within the sole discretion of the Director, Waste Management Division, EPA Region IX, subject to the terms of this CA/FO. Upon request, EPA may provide Respondent with an opportunity to confer with the Division Director prior to this determination; however, such conference shall not provide Respondent with any rights to challenge or appeal the decision. The decision of the Division Director, Waste Management Division, EPA Region IX is not reviewable in any forum.
29. All stipulated penalties shall begin to accrue on the date that performance is due or a violation occurs. Stipulated penalties under Paragraph 23 shall continue to accrue through the final day of correction of the noncompliance. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations.
30. All stipulated penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate

published by the United States Treasury, as described at 40 CFR § 13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.

31. Payment shall be made as described above in Paragraph 20. At the time payment is made, a copy of the check or payment documentation shall be sent to Danielle Carr and Clint Seiter as described above in Paragraph 21.
32. All payments shall indicate the name of the Facility, EPA identification number of the Facility, the Respondent's name and address, and the EPA docket number of this action.
33. The payment of stipulated penalties under Paragraph 23 shall not alter in any way Respondent's obligation to complete the performance required hereunder.
34. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this CA/FO.

H. RESERVATION OF RIGHTS

35. This CA/FO shall not affect the right of the EPA to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. Full payment of the penalty proposed shall only resolve Respondent's liability for Federal civil penalties for the violations and facts alleged in the complaint. This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), or any other statutory, regulatory or common law enforcement authority of the United States.
36. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, State or federal laws and regulations.
37. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as it relates to Respondent's liability for federal civil penalties for the specific alleged violations and facts as set forth in the Complaint.
38. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, State or federal permits.

I. OTHER CLAIMS


Nothing in this CA/FO shall constitute or be construed as a release from any other claim, 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 the Facility.

J. MISCELLANEOUS

39. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
40. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
41. The Effective Date of this CA/FO is the date the Final Order is signed by EPA.


IT IS SO AGREED.

June 26, 2008
Date



Glicerio Arago
Secretary
Concorde Garment Manufacturing Corp.

6/30/08
Date



Jeff Scott
Director, Waste Management Division
U.S. Environmental Protection Agency, Region IX

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 CFR Section 22.18, U.S. EPA Docket No. RCRA-09-2008-0002, be entered and that Respondent, Concorde Garment Manufacturing Corp., complete the Supplemental Environmental Project and all other tasks required under this CA/FO (including, if applicable, the payment of any additional civil penalty which may become due under Section G of this CA/FO), and pay a civil penalty of FIFTEEN THOUSAND TWO HUNDRED DOLLARS (\$15,200.00). Payment shall be made pursuant to paragraph 20 of the CA/FO within thirty days of the Effective Date. A copy of the check or payment documentation shall be sent to the EPA Region IX addresses specified in Section F of this Consent Agreement and Final Order Pursuant to 40 CFR Section 22.18 at such time as payment is made.

This Final Order shall be effective immediately.

July 1, 2008
Date



Steven Jawgiel
Regional Judicial Officer
U.S. Environmental Protection Agency, Region IX