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1 UNITED STATES
2 ENVIRONMENTAL PROTECTION AGENCY
3 REGION 9

2007 JUL 19 AM 10:05
U.S. EPA REGION IX
REGIONAL HEARING CLERK

4 In the Matter of:

Docket No. EPCRA-09-2007-0009

5 Peterson Systems International

CONSENT AGREEMENT AND FINAL
ORDER PURSUANT TO 40 C.F.R.
§§ 22.13 AND 22.18

6 Respondent
7

8 I. CONSENT AGREEMENT

- 9 1. The Director of the Communities and Ecosystems Division
10 ("Complainant"), United States Environmental Protection
11 Agency ("EPA") Region 9, and Peterson Systems International
12 ("Respondent" or "Peterson") agree to settle this matter and
13 consent to the filing of this Consent Agreement and Final
14 Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18 ("CAFO"),
15 which simultaneously commences and concludes this matter in
16 accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).
- 17 2. This is a civil administrative proceeding initiated pursuant
18 to Section 325(c) of Title III of the Superfund Amendments
19 and Reauthorization Act, 42 U.S.C. § 11001 et seq., also
20 known as the Emergency Planning and Community Right-to-Know
21 Act of 1986 ("EPCRA"), for violation of Section 313 of EPCRA,
22 42 U.S.C. § 11023, and the regulations promulgated to
23 implement Section 313 at 40 C.F.R. Part 372.
- 24 3. Complainant has been duly delegated the authority to file
25 this action and sign a consent agreement settling this
26 action. Respondent is a corporation that is incorporated in
27 Utah, and the facility is located at 2350 E. Central Avenue,
28 Duarte, CA 91010.

- 1 4. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023
2 and 11048, EPA promulgated the Toxic Chemical Release
3 Reporting: Community Right-to-Know Rule at 40 C.F.R. Part
4 372.
- 5 5. Section 313(a) of EPCRA, as implemented by 40 C.F.R. §
6 372.30, provides that an owner or operator of a facility that
7 meets the criteria set forth in EPCRA Section 313(b) and 40
8 C.F.R. § 372.22, is required to submit annually to the
9 Administrator of EPA and to the State in which the facility
10 is located, no later than July 1st of each year, a toxic
11 chemical release inventory reporting form (hereinafter "Form
12 R") for each toxic chemical listed under 40 C.F.R. § 372.65
13 that was manufactured, processed or otherwise used at the
14 facility during the preceding calendar year in quantities
15 exceeding the thresholds established under EPCRA Section
16 313(f) and 40 C.F.R. §§ 372.25, 372.27 and 372.28.
- 17 6. Section 313(b) of EPCRA and 40 C.F.R. § 372.22 provide that
18 the requirements of Section 313(a) and 40 C.F.R. § 372.30
19 apply to an owner and operator of a facility that has 10 or
20 more full-time employees; that is in a Standard Industrial
21 Classification major group codes 10 (except 1011, 1081, and
22 1094), 12 (except 1241), 20 through 39; industry codes 4911,
23 4931, or 4939 (limited to facilities that combust coal and/or
24 oil for the purpose of generating power for distribution in
25 commerce), or 4953 (limited to facilities regulated under the
26 Resource Conservation and Recovery Act, subtitle C, 42 U.S.C.
27 §6921 et seq.), or 5169, 5171, or 7389 (limited to facilities
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1 primarily engaged in solvent recovery services on a contract
2 or fee basis); and that manufactures, processes, or otherwise
3 uses one or more toxic chemicals listed under Section 313(c)
4 of EPCRA and 40 C.F.R. § 372.65 in quantities in excess of
5 the applicable thresholds established under EPCRA Section
6 313(f) and 40 C.F.R. §§ 372.25, 372.27 and 372.28.

7 7. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c) and 40 C.F.R.
8 Part 19 authorize EPA to assess a penalty of up to \$27,500
9 for each violation of Section 313 of EPCRA that occurred on
10 or after January 31, 1997 but before March 15, 2004 and up to
11 \$32,500 for each violation of Section 313 of EPCRA that
12 occurred on or after March 15, 2004.

13 8. Respondent is a "person," as that term is defined by Section
14 329(7) of EPCRA.

15 9. At all times relevant to this CAFO, Respondent was the owner
16 and operator of a "facility," as that term is defined by
17 Section 329(4) of EPCRA and 40 C.F.R. § 372.3, located at
18 2350 E. Central Avenue, Duarte, CA 91010 ("Facility"); the
19 Facility had 10 or more "full-time employees," as that term
20 is defined at 40 C.F.R. § 372.3; and the Facility was
21 classified in Standard Industrial Classification Code 3089 -
22 plastic products, nec.

23 10. During calendar years 2001 and 2002 Respondent otherwise used
24 approximately the following amounts (in pounds) of methylene
25 chloride under 40 C.F.R § 372.65:

<u>Year</u>	<u>Methylene Chloride</u>
2001	17,712

1 2002 12,989

2 11. The quantities of methylene chloride that Respondent
3 otherwise used at the Facility during calendar years 2001 and
4 2002 exceed the established threshold of 10,000 pounds set
5 forth at 40 C.F.R. § 372.25(b).

6 12. Pursuant to Section 313(a) of EPCRA and 40 C.F.R. § 372.30,
7 Respondent was required to submit to EPA and the State of
8 California complete and accurate Form Rs on or before July 1,
9 every year between 2002 and 2003 inclusive, covering
10 methylene chloride otherwise used at the Facility the
11 preceding calendar year.

12 13. The EPA Enforcement Response Policy for EPCRA Section 313
13 dated August 10, 1992 provides for a penalty of eleven
14 thousand dollars (\$11,000) for these violations.

15 14. In executing this CAFO, Respondent certifies that (1) it has
16 now fully completed and submitted to EPA all of the required
17 Form Rs in compliance with Section 313 of EPCRA and the
18 regulations promulgated to implement Section 313; and (2) it
19 has complied with all other EPCRA requirements at all
20 facilities under its control.

21 15. In accordance with 40 C.F.R. § 22.18(b)(2) and for the
22 purpose of this proceeding, Respondent (i) admits that EPA
23 has jurisdiction over the subject matter of this CAFO and
24 over Respondent; (ii) admits the violations and facts alleged
25 in this CAFO; (iii) consents to the terms of this CAFO; (iv)
26 waives any right to contest the allegations in this CAFO; and
27 (v) waives the right to appeal the proposed final order
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- 1 contained in this CAFO.
- 2 16. The terms of this CAFO constitute a full settlement of the
3 civil administrative matter filed under the docket number
4 above.
- 5 17. EPA's final policy statement on Incentives for Self-Policing:
6 Discovery, Disclosure, Correction and Prevention of
7 Violations, 65 Fed. Reg. 19617 (April 11, 2000) ("Audit
8 Policy") has several important goals, including encouraging
9 greater compliance with the laws and regulations which
10 protect human health and the environment and reducing
11 transaction costs associated with violations of the laws EPA
12 is charged with administering. If certain specified criteria
13 are met, reductions in gravity-based penalties of up to 100%
14 are available under the Audit Policy. These criteria are (1)
15 discovery of the violation(s) through an environmental audit
16 or due diligence; (2) voluntary disclosure; (3) prompt
17 disclosure; (4) discovery and disclosure independent of
18 government or third party plaintiff; (5) correction and
19 remediation; (6) prevent recurrence; (7) no repeat
20 violations; (8) other violations excluded; and (9)
21 cooperation.
- 22 18. Complainant has determined that Respondent has satisfied all
23 of the criteria under the Audit Policy and thus qualifies for
24 the elimination of civil penalties in this matter.
25 Accordingly, the civil penalty assessed in this matter is
26 zero (\$0) dollars.
- 27 19. Complainant's finding that Peterson has satisfied the
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1 criteria of the Audit Policy is based upon documentation that
2 Peterson has provided to establish that it satisfies these
3 criteria. Complainant and Respondent agree that, should any
4 material fact upon which Complainant relied in making its
5 finding subsequently prove to be other than as represented by
6 Peterson, this CAFO may be voided in whole or in part.


7 20. Nothing in this CAFO modifies, affects, exempts or relieves
8 Respondent's duty to comply with all applicable provisions of
9 EPCRA and other federal, state or local laws and permits. In
10 accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves
11 Respondent's liability for federal civil penalties for the
12 violations and facts specifically alleged in this CAFO.
13 Nothing in this CAFO is intended to or shall be construed to
14 resolve (i) any civil liability for violations of any
15 provision of any federal, state, or local law, statute,
16 regulation, rule, ordinance, or permit not specifically
17 alleged in this CAFO; or (ii) any criminal liability. EPA
18 specifically reserves any and all authorities, rights, and
19 remedies available to it (including, but not limited to,
20 injunctive or other equitable relief or criminal sanctions)
21 to address any violation of this CAFO or any violation not
22 specifically alleged in this CAFO.

23 21. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b),
24 this CAFO shall be effective on the date that the final order
25 contained in this CAFO, having been approved and issued by
26 either the Regional Judicial Officer or Regional
27 Administrator, is filed.

1 22. The provisions of this CAFO shall be binding upon Respondent,
2 its agents, successors or assigns. Respondent's obligations
3 under this Consent Agreement, if any, shall end when
4 Respondent has performed all of the terms of the Consent
5 Agreement in accordance with the Final Order. Complainant
6 and Respondent consent to the entry of the CAFO without
7 further notice.
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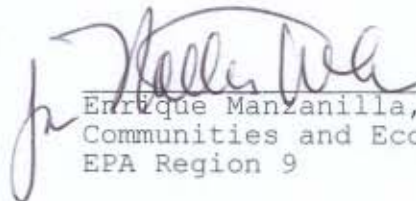
9 FOR RESPONDENT:

10
11 5/24/2007
12 Date


13 Thomas Lubanski
14 President and CEO
15 Peterson Systems International

16 FOR COMPLAINANT:

17
18 7/17/07
19 Date


20 Enrique Manzanilla, Director
21 Communities and Ecosystems Division
22 EPA Region 9
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II. FINAL ORDER

Complainant EPA Region IX and Respondent Peterson Systems International having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this Consent Agreement and Final Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18 (Docket No. EPCRA-09-2007-0009) be entered.

07/18/07
Date


Steven Jawgiel
Regional Judicial Officer
U.S. Environmental Protection
Agency, Region 9

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2 CERTIFICATE OF SERVICE

3 I certify that the original of the foregoing Consent Agreement
4 and Final Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18, Docket
5 No. EPCRA-09-2007-**0009**, was hand delivered to the Regional
6 Hearing Clerk, United States Environmental Protection Agency,
7 Region 9, 75 Hawthorne Street, San Francisco, California 94105,
8 and that a true and correct copy thereof was placed in the United
9 States Mail, certified mail, return receipt requested, addressed
10 to the following address:

11
12 Thomas Lubanski, President/CEO
13 Peterson Systems International
14 2350 E. Central Avenue
Duarte, CA 91010

15 Certified Return Receipt No. 7005 3110 0002 8247 6747

16
17
18 Date: 7 / 19 / 2007

By: Danielle E. Carr

DANIELLE CARR
Regional Hearing Clerk
United States Environmental
Protection Agency, Region IX
75 Hawthorne Avenue
San Francisco, California 94105-3143