



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

March 14, 2016

CERTIFIED MAIL-  
RETURN RECEIPT REQUESTED

Franklin G. Quow, Esq.  
Legal Consultant  
HOVENSA L.L.C.  
1 Estate Hope  
Christiansted, VI 00820

Re: Consent Agreement and Final Order, In the Matter of HOVENSA L.L.C.  
Docket No. CAA-02-2015-1206

Dear Mr. Quow:

Enclosed please find a fully executed copy of the Consent Agreement and Final Order in this matter. Please do not hesitate to contact me if you have any questions.

Thank you again for your assistance throughout this process.

Sincerely,

A handwritten signature in blue ink that reads "Jean H. Regna".

Jean H. Regna  
Assistant Regional Counsel

Enclosure

cc: Honorable Susan L. Biro  
Chief Administrative Law Judge  
U.S. Environmental Protection Agency

Sybil Anderson, Headquarters Hearing Clerk  
EPA Office of Administrative Law Judges

**In the Matter of HOVENSA L.L.C.**  
**Docket No. CAA-02-2015-1206**

**CERTIFICATE OF SERVICE**

I certify that the foregoing correspondence has been sent this day in the following manner to the addresses listed below:

By OALJ E-Filing system to:

Sybil Anderson, Headquarters Hearing Clerk  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Ronald Reagan Building, Room M1200  
1300 Pennsylvania Avenue, NW  
Washington, DC 20004

By OALJ E-Filing system to:

Honorable Susan L. Biro  
Chief Administrative Law Judge  
U.S. EPA/OALJ  
1200 Pennsylvania Avenue  
NW Mail Code 1900R  
Washington DC 20460

Copy by email, followed by certified mail to:

Franklin G. Quow, Esq.  
HOVENSA L.L.C.  
1 Estate Hope  
Christiansted, VI 00820

Date: March 14, 2016

Name: Jean H. Regna

Jean H. Regna  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 17<sup>th</sup> floor  
New York, New York 10007-1866  
212-637-3164//FAX: 212-637-3104  
regna.jean@epa.gov

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

In the Matter of

HOVENSA L.L.C.,  
One Estate Hope,  
Christiansted, St. Croix, U.S.V.I.,

Respondent.

Docket No. CAA-02-2015-1206

CONSENT AGREEMENT AND  
FINAL ORDER

**PRELIMINARY STATEMENT**

Complainant, the United States Environmental Protection Agency (“EPA”), Region 2, and Respondent, HOVENSA L.L.C., by their undersigned representatives, hereby consent and agree as follows:

1. EPA initiated this proceeding for the assessment of civil penalties pursuant to Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d), by issuing an Administrative Complaint, Docket No. CAA-02-2015-1206 (the “Complaint”), against Respondent on December 18, 2014.
2. Respondent was the owner and/or operator of the facility located at One Estate Hope, Christiansted, St. Croix, U.S. Virgin Islands (the “Facility”), and is now the owner and/or operator of a portion of the Facility.
3. The Complaint charged Respondent with eight counts for violations of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the regulations promulgated thereunder at 40 C.F.R. Part 68, for failure to fully comply with the risk management program requirements at the Facility.
4. Respondent HOVENSA L.L.C. filed a petition for bankruptcy in the United States Bankruptcy Court, District Court of the Virgin Islands, on September 15, 2015, Bankruptcy Case Number: 1:15-bk-10003-MFW. The parties agree that settlement amount set forth in Paragraph 6 below will be treated as a general unsecured claim in this bankruptcy, subject to the approval of the Court.

**GENERAL PROVISIONS**

5. Pursuant to 40 C.F.R. § 22.18(b), for the purposes of this proceeding, Respondent:
  - a. admits the jurisdictional allegations set forth in the Complaint;
  - b. neither admits nor denies the factual allegations contained in the Complaint;

- c. consents to the assessment of the civil penalty specified in the Settlement section below, on the terms specified in that section;
- d. waives any right to contest the Complaint's allegations and any right to appeal the attached Final Order; and
- e. consents to the issuance of the Consent Agreement and attached Final Order.

**SETTLEMENT**

6. Pursuant to Section 113(d) of the CAA, Respondent agrees to pay a civil penalty of one hundred fifteen thousand dollars (\$115,000.00), as described below. Such payment shall be made by cashier's or certified check or by Electronic Fund Transfer ("EFT"). Payment of the penalty must be received by EPA on or before thirty (30) calendar days after the date of signature of the Final Order at the end of this document (hereinafter referred to as the "due date").

If the payment is made by check, then the check shall be made payable to the "Treasurer, United States of America" and shall be mailed to:

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

The check shall be identified with a notation listing the following: "In the Matter of HOVENSA L.L.C." and shall bear thereon "Docket Number CAA-02-2015-1206." Respondent shall simultaneously furnish proof that such payment has been made to:

Jean Regna, Esq.  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
290 Broadway, 17th Floor  
New York, New York 10007-1866

and

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th Floor  
New York, NY 10007-1866.

If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- a. Amount of Payment: \$115,000.00
- b. SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- c. Account Code for Federal Reserve Bank of New York receiving payment: 68010727
- d. Federal Reserve Bank of New York ABA routing number: 021030004
- e. Field Tag 4200 of the Fedwire message should read: "D 68010727 Environmental Protection Agency"
- f. Name of Respondent: HOVENSA L.L.C.
- g. Case Number: CAA-02-2015-1206

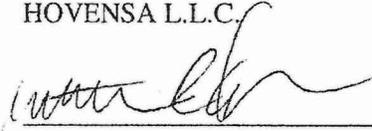
If payment is made by EFT, Respondent shall simultaneously send a letter to each of the above addressees which references the date of the EFT, the payment amount, the name of the case, the case number, and Respondent's name and address.

- 7. If Respondent fails to make full and complete payment of the civil penalty that it is required to pay by this CA/FO, subject to the provisions of Paragraph 4, this case may be referred by EPA to the United States Department of Justice and/or the United States Department of the Treasury for collection. In such an action, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), and 31 U.S.C. § 3717, Respondent shall pay the following amounts:
  - a. Interest. If Respondent fails to make payment, or makes partial payment, any unpaid portion of the assessed penalty shall bear interest at the rate established pursuant to 31 U.S.C. § 3717 and 26 U.S.C. § 6621 from the payment due date.
  - b. Handling Charges. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of fifteen dollars (\$15.00) shall be paid if any portion of the assessed penalty is more than thirty (30) days past the payment due date.
  - c. Attorney Fees, Collection Costs, Nonpayment of Penalty. If Respondent fails to pay the amount of an assessed penalty on time, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), in addition to such assessed penalty and interest and handling assessments, Respondent shall also pay the United States' enforcement expenses, including but not limited to attorney fees and costs incurred by the United States for collection proceedings, and a quarterly non-payment penalty for each calendar quarter during which such a failure to pay persists. Such non-payment penalty shall be ten percent (10%) of the aggregate amount of Respondent's outstanding penalties and non-payment penalties accrued from the beginning of such quarter.
- 8. The penalty specified in Paragraph 6, above, shall represent a civil penalty assessed by EPA and shall not be deductible for purposes of State or Federal taxes.

9. Respondent certifies that that the portion of the Facility that it now owns and/or operates does not contain a process that is subject to the requirements of Section 112(r)(7) of the CAA and 40 C.F.R. Part 68.
10. Full and complete satisfaction of the requirements of this Consent Agreement and Final Order shall resolve Respondent's liability for federal civil penalties for the violations and facts alleged in the Complaint.
11. This CA/FO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, State, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, State, or local permit. This CA/FO shall not affect the right of the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. Compliance with this CA/FO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.
12. This CA/FO and any provision herein is not intended to be an admission of liability in any adjudicatory or administrative proceeding except in an action, suit, or proceeding to enforce this CA/FO or any of its terms and conditions.
13. Respondent explicitly waives any right to request a hearing and/or contest any allegations in this Consent Agreement and explicitly waives any right to appeal the attached Final Order.
14. Each party hereto shall bear its own costs and attorneys' fees in the action resolved by this CA/FO.
15. This CA/FO shall be binding on Respondent and its successors and assignees.
16. Each of the undersigned representatives to this CA/FO certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms and conditions of the CA/FO and to execute and legally bind that party to it.
17. Respondent consents to service upon Respondent of a copy of this CA/FO by any EPA employee, in lieu of service made by the Regional Hearing Clerk.

In the Matter of HOVENSA L.L.C., Docket No. CAA-02-2015-1206

For Respondent:  
HOVENSA L.L.C.

  
\_\_\_\_\_  
Signature

Date: 3/2/16

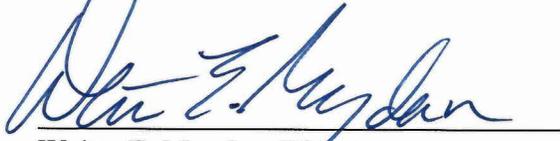
Matthew R. Kahn  
\_\_\_\_\_  
Name (Printed or Typed)

Manager  
\_\_\_\_\_  
Title (Printed or Typed)



In the Matter of HOVENSA L.L.C., Docket No. CAA-02-2015-1206

For Complainant:  
U.S. Environmental Protection Agency

A handwritten signature in blue ink, appearing to read "Walter E. Mugdan", is written over a horizontal line.

Walter E. Mugdan, Director  
Emergency and Remedial Response  
Division, Region 2

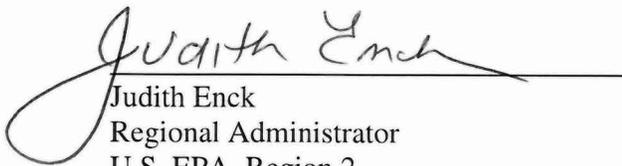
Date: March 8, 2016



**FINAL ORDER**

The Regional Administrator of the U.S. EPA, Region 2, ratifies the foregoing Consent Agreement. The Consent Agreement entered into by and between the parties is hereby approved, incorporated herein, and issued, as a Final Order.

3/9/16  
Date

  
\_\_\_\_\_  
Judith Enck  
Regional Administrator  
U.S. EPA, Region 2

