



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 09 2008

REPLY TO THE ATTENTION OF:

SC-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Douglas Roberts, President
Envirosafe Services of Ohio, Inc.
876 Otter Creek Road
Oregon, OH 43616-1243

Re: Envirosafe Services of Ohio, Oregon, Ohio, Consent Agreement and Final Order
Docket No.: CERCLA-05-2008-0006

Dear Mr. Roberts:

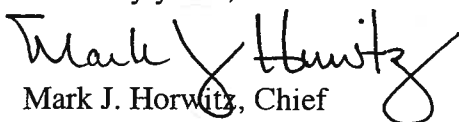
Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the other original CAFO with the Regional Hearing Clerk on September 9, 2008.

Please pay the civil penalty in the amount of \$15,716.00 in the manner prescribed in paragraph 10, and reference you check with the billing document number 2750830B008 and the docket number CERCLA-05-2008-0006.

Your payment is due on October 9, 2008 [within 30 days of filing date].

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Harriet Croke, Assistant Regional Counsel, at (312) 353-4789. Thank you for your assistance in resolving this matter.

Sincerely yours,


Mark J. Horwitz, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

cc: Regional Hearing Clerk
U.S. EPA Region 5

H. Croke (w/ enclosure)

Ms. Cindy DeWulf, Co-Chairperson (w/ enclosure)
Henry Guzman, Co-Chairperson (w/ enclosure)
Jeff Beattie (w/ enclosure)
Mel House (w/ enclosure)
OH SERC

Judge Barbara A. Gunning (w/ enclosure)
U.S. EPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Mail Code 1990L
Washington, DC 20460 (pouch)

Richard T. Sargent, Attorney (w/ enclosure)
Eastman & Smith Ltd.
One SeaGate, 24th Floor
P.O. Box 10032
Toledo, OH 43699-0032 (certified)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No.: CERCLA-05-2008-0006
)
Envirosafe Services of Ohio, Inc.) Proceeding to Assess a Civil Penalty
876 Otter Creek Road) Under Section 109 of the
Oregon, OH 43616) Comprehensive Environmental
) Response, Compensation, and Liability
Respondent)

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US EPA REGION V
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CONSENT AGREEMENT AND FINAL ORDER

1. Complainant, the Chief of the Chemical Emergency Preparedness and Prevention Section, Emergency Response Branch 2, Superfund Division, U.S. Environmental Protection Agency (U.S. EPA), Region 5, brought this administrative action seeking a civil penalty under Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9609.

2. On April 16, 2008, U.S. EPA filed the Complaint in this action against Respondent, Envirosafe Services of Ohio, Inc.

3. The Complaint alleges that Respondent violated Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), by failing to immediately notify the National Response Center of a release which occurred at its facility in Oregon, Ohio on February 3, 2007.

4. Respondent filed an Answer and requested a hearing under Section 325(b)(1)(B) of EPCRA, 42 U.S.C. § 11045(b)(1)(B), and Section 109(a)(2) of CERCLA, 42 U.S.C. § 9609(a)(2).

Stipulations

5. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual allegations in the Complaint.

6. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

7. The parties consent to the terms of this CAFO.

8. The parties agree that settling this action without further litigation, upon the terms in this CAFO, and without any admission of liability by Respondent, is in their interest and in the public interest.

Civil Penalty

9. In consideration of Respondent's cooperation, willingness to quickly resolve this matter, reduced risk to the community, and other matters as justice may require, U.S. EPA agrees to mitigate the proposed penalty of \$28,340.00 to \$15,716.00.

10. Within 30 days after the effective date of this CAFO, Respondent must pay a \$15,716.00 civil penalty for the CERCLA violation. Respondent has elected to pay by electronic funds transfer. Respondent must pay the penalty by electronic funds transfer, payable to "EPA Hazardous Substance Superfund," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire should read "D68010727
Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state the following:

Envirosafe Services of Ohio, Inc., the docket number of this CAFO (CERCLA-05-2008-0006)

and the billing document number 2750830B008.

11. At the time of payment, Respondent shall send notice that such payment has been made, stating the case title, Respondent's complete address, the case docket number, the billing document number, and payment date. Respondent must send copies of the notice to:

Regional Hearing Clerk, (E-13J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

James Entzminger, (SC-6J)
Chemical Emergency Preparedness
and Prevention Section
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Harriet Croke, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

12. The civil penalty is not deductible for federal tax purposes.

13. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

14. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U. S. EPA will assess a six percent per year penalty on any principal amount not paid within 90 days of the date that this CAFO has been entered by the Regional Hearing Clerk.

General Provisions

15. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint.

16. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

17. Respondent certifies that it is complying with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

18. This CAFO does not affect Respondent's responsibility to comply with CERCLA and other applicable federal, state and local laws, and regulations.

19. This CAFO is a "final order" for purposes of U.S. EPA's Enforcement Response Policy for Section 103 of CERCLA.

20. The terms of this CAFO bind Respondent and its successors, and assigns.

21. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

22. Each party agrees to bear its own costs and fees, including attorney's fees, in this action.

23. This CAFO constitutes the entire agreement between the parties.

In the Matter of:
Envirosafe Services of Ohio, Inc., Oregon, Ohio
Consent Agreement and Final Order
Docket No. CERCLA-O5-2008-0006

U.S. Environmental Protections Agency, Complainant

Date: 9/4/08

By: Mark J. Horwitz
Mark J. Horwitz, Chief
Chemical Emergency Preparedness
and Prevention Section
Superfund Division
Region 5

Date: 9-4-08

By: Richard C. Karl
Richard C. Karl, Director
Superfund Division
Region 5

Envirosafe Services of Ohio, Inc., Respondent

Date: 8/27/08

By: D. Roberts
Douglas Roberts, President
Envirosafe Services of Ohio, Inc.

In the Matter of:
Envirosafe Services of Ohio, Inc., Oregon, Ohio
Consent Agreement and Final Order
Docket No. CERCLA-O5-2008-0006

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9/5/08
Date

Walter W. Kovalich
Lynn Buhl
Regional Administrator
U.S. Environmental Protection Agency
Region 5

In the Matter of:
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CERTIFICATE OF SERVICE

I, James Entzminger certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CERCLA-05-2008-0006 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Administrative law Judge Barbara A. Gunning and Envirosafe Services of Ohio, Inc. and their counsel by placing them in the custody of the United States Postal Service addressed as follows:

Judge Barbara A. Gunning
U.S. EPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Mail Code 1990L
Washington, DC 20460

Richard T. Sargent, Attorney
Eastman & Smith Ltd.
One SeaGate, 24th Floor
P.O. Box 10032
Toledo, OH 43699-0032

Douglas Roberts, President
Envirosafe Services of Ohio, Inc.
876 Otter Creek Road
Oregon, OH 43616-1243

on the 9 day of September, 2008.


James Entzminger
U.S. Environmental Protection Agency
Region 5

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REGIONAL HEARING CLERK
US EPA REGION 5

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