

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 9**

**\*\*FILED\*\*  
01 DEC 2021  
U.S. EPA - REGION IX**

**IN THE MATTER OF:**

**Giumarra Vineyards Corp.  
11220 Edison Highway  
Bakersfield, California 93307**

**Respondent**

---

**Docket No.  
CAA(112R)-09-2022-0004**

**CONSENT AGREEMENT  
AND FINAL ORDER  
40 C.F.R. §§ 22.13 and 22.18**

**CONSENT AGREEMENT**

**A. PRELIMINARY STATEMENT**

1. This is a civil administrative enforcement action instituted pursuant to Section 113(a)(3)(A) and (d) of the Clean Air Act (“CAA”), as amended, 42 U.S.C. § 7413(a)(3)(A) and (d), Section 312 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11022, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22.

2. Complainant is the United States Environmental Protection Agency, Region 9 (“EPA”).

3. Respondent is Giumarra Vineyards Corporation.

4. This Consent Agreement and Final Order (“CA/FO”), pursuant to 40 C.F.R. §§ 22.13 and 22.18, simultaneously commences and concludes this proceeding, wherein

EPA alleges that Respondent violated Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and Section 312 of EPCRA, 42 U.S.C. § 11022, and their implementing regulations.

**B. GENERAL ALLEGATIONS**

5. Respondent owns and operates a facility located at 11220 Edison Highway, Bakersfield, California (“Facility”). Respondent operates the Facility 24 hours per day between the end of June and December.

6. On September 12, 2019, EPA conducted an inspection of the Facility pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), Sections 304-312 of EPCRA, 42 U.S.C. §§ 11004-11022, and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9603(a). Based upon the information gathered during this inspection and subsequent investigation, EPA determined that Respondent violated certain provisions of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and Section 312 of EPCRA, 42 U.S.C. § 11022.

**i. Clean Air Act Section 112(r)**

7. At all times relevant to this CA/FO, Respondent has been a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

8. At all times relevant to this CA/FO, the Facility has been a “stationary source” as defined by Section 112(r)(2)(C), 42 U.S.C. § 7412(r)(2)(C).

9. At all times relevant to this CA/FO, Respondent has been the “owner or operator” of the Facility for the purposes of the CAA.

10. At all times relevant to this CA/FO, Respondent has been the “owner or operator” of a stationary source that has a regulated substance in an amount equal to or in excess of

the applicable threshold quantity in a “process” as defined by 40 C.F.R. § 68.3 and is subject to the Risk Management Plan rule (“RMP”) Program Level 3 requirements.

11. Respondent is subject to the powers vested in the EPA Administrator by Section 113 of the CAA, 42 U.S.C. § 7413.

12. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes EPA to assess civil penalties for any violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

13. Pursuant to Section 112(r)(7) of the CAA, 2 U.S.C. § 7412(r), and its implementing regulations, owners, and operators of stationary sources at which a regulated substance is present in more than a threshold quantity (“TQ”) must prepare and implement a risk management plan (“RMP”) to detect and prevent or minimize accidental releases of such substances from the stationary sources in order to protect human health and the environment.

14. Pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), EPA established a TQ for each “regulated substance” at or above which a facility that has such a substance in one or more processes shall be subject to the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). For substances designated as “regulated toxic substances,” the TQs are specified at 40 C.F.R. § 68.130, Table 1.

15. Anhydrous ammonia is a regulated substance listed under Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), with a TQ of 10,000 pounds. 40 C.F.R. § 68.130, Table 1.

16. At all times relevant to this CA/FO, Respondent has had 10,000 pounds or more of anhydrous ammonia in one or more processes at its Facility.

17. The Administrator of EPA has delegated to the Regional Administrators authority to sign consent agreements memorializing settlements of enforcement actions under the CAA. Delegation 7-6-A, dated August 4, 1994. The Regional Administrator, EPA Region 9, in turn, has re-delegated this authority to the Director of the Enforcement and Compliance Assurance Division. Regional Delegation R9-7-6A, dated February 11, 2013.

18. In a letter dated November 3, 2020, the United States Department of Justice granted EPA a waiver from the condition on administrative actions specified in Section 113(d) of the CAA, 42 U.S.C. § 7413(d), that the first alleged date of violation occurred no more than one year before the initiation of the administrative action, to allow EPA to pursue certain administrative actions for violations of 40 C.F.R. Part 68, promulgated pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r). This administrative action falls within the scope of that waiver.

**ii. EPCRA Section 312**

19. Section 312 EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. Part 370, require the owner or operator of a facility that is required to prepare or have available a material safety data sheet (or safety data sheet) for a hazardous chemical under the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 *et seq.*, to prepare and submit an annual emergency and hazardous chemical inventory form (“inventory form”) containing information on hazardous chemicals present at the facility during the preceding calendar year above threshold levels established in 40 C.F.R. Part 355, App. A and B.

20. At all times relevant to this CA/FO, Respondent has been a “person” as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

21. The Facility is a “facility” as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).
22. At all times relevant to this CA/FO, Respondent has been an owner or operator of the Facility for the purposes of EPCRA.
23. Ammonia is an “extremely hazardous chemical” as defined in Sections 311(e) and 312(c) of EPCRA, 42 U.S.C. §§ 11021(e) and 11022(c), with a threshold planning quantity of 500 pounds. 40 C.F.R. Part 355, App. A & B.
24. At all times relevant to this CA/FO, the Facility used or stored ammonia in amounts greater than the threshold planning quantity.
25. At all times relevant to this CA/FO, as the owner or operator of a facility that exceeded 500 pounds or more of ammonia, Respondent was required to submit a material data safety sheet (or safety sheet) for ammonia for the Facility, pursuant to Section 312 of EPCRA, 42 U.S.C. § 11022.
26. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), authorizes the assessment of civil penalties for any violation of Section 312 of EPCRA, 42 U.S.C. § 11022.
27. The Administrator of EPA has delegated to the Regional Administrators the authority to sign consent agreements memorializing settlements of enforcement actions under EPCRA. Delegation 22-3-A, dated May 11, 1994. The Regional Administrator, EPA Region 9, in turn, has re-delegated this authority to Region 9’s Director of the Enforcement and Compliance Assurance Division. Regional Delegation R9-22-3-A, dated February 11, 2013.

C. **ALLEGED VIOLATIONS**

**COUNT 1**

**(EPCRA Reporting Deficiencies)**

28. Paragraphs 1 through 27, above, are incorporated herein by this reference as if they were set forth here in their entirety.

29. EPCRA Tier II reports provide state and local officials and the public with specific information on the amounts and locations of hazardous chemicals present at a facility during the previous calendar year. 40 C.F.R. § 370.42. For each hazardous substance the facility is required to report, the owner or operator must provide a brief description of the precise location(s) of the hazardous chemical(s) or mixture(s) at the facility. *Id.* § 370.42(s)(11). The owner or operator of a facility must submit the required inventory information on or before March 1 of each year, and each submission must contain the required inventory information on hazardous chemicals present at the facility during the preceding calendar year at or above the threshold levels. *Id.* § 370.45(a).

30. Respondent did not provide accurate information to the California Environmental Reporting System (“CERS”) regarding the precise location of hazardous chemicals at the Facility in its EPCRA Tier II Report for Reporting Year (RY) 2018.

31. Respondent failed to submit information on time on all hazardous chemicals present at the Facility during the previous calendar year in amounts that meet or exceed thresholds in the Tier II Report for the Facility to CERS for RY 2016, 2017 and 2019.

32. By failing to comply with the EPCRA reporting requirements to provide accurate information regarding the precise location of hazardous materials for RY 2018 and failing to timely submit the Tier II Report for the Facility in its RY 2016, 2017 and 2019 reports,

Respondent violated the EPCRA regulations at 40 C.F.R. §§ 370.42(s)(11) and 370.45(a), which were promulgated pursuant to Section 312 of EPCRA, 42 U.S.C. § 11022.

**COUNT 2**

**(Process Safety Information)**

33. Paragraphs 1 through 27, above, are incorporated herein by this reference as if they were set forth here in their entirety.

34. 40 C.F.R. § 68.65(a) requires that the owner or operator of a facility shall complete a compilation of written process safety information before conducting any Process Hazard Analysis (“PHA”) required by the rule and that the process safety information shall include information pertaining to the equipment in the process.

35. As required by 40 C.F.R. § 68.65(d)(1)(ii), information pertaining to the equipment in the process shall include piping and instrument diagrams (“P&IDs”).

36. Respondent did not have accurate P&IDs for the South and North Systems at the Facility.

37. As required by 40 C.F.R. § 68.65(d)(1)(iv), information pertaining to the equipment in the process shall include relief system design and design basis.

38. Respondent did not have accurate relief system design and design basis for the South and North Systems at the Facility.

39. 40 C.F.R. § 68.65(d)(2) requires the owner and operator shall document that equipment complies with recognized and generally accepted good engineering practices (“RAGAGEP”). For existing equipment designed and constructed in accordance with codes, standards, or practices that are no longer in general use, 40 C.F.R. § 68.65(d)(3)

requires the owner or operator to determine and document that the equipment is designed, maintained, inspected, tested, and operating in a safe manner.

40. During the inspection, EPA identified multiple deficiencies in process safety information maintained by the Facility. Specifically, Respondent did not document that its Facility's equipment complies with RAGAGEP or that the equipment is designed, maintained, inspected, tested, and operating in a safe manner. EPA identified the following types of deficiencies: (a) inadequate labeling and placards throughout the ammonia refrigeration systems; (b) missing ammonia leak detection alarms; (c) inadequate emergency exit safeguards; (d) unprotected pressure vessel and pressure vessels with missing engineering design data; (e) unaccessible emergency shut-off valve; (f) improper relief device venting locations; (g) temporary electrical wiring; and (h) improperly stored maintenance and storage equipment.

41. By failing to comply with the process safety information requirement to include information pertaining to equipment in the process, Respondent violated 40 C.F.R. § 68.65(a), (d)(1)(ii), (d)(1)(iv), (d)(2), and (d)(3).

### **COUNT 3**

#### **(Process Hazard Analysis)**

42. Paragraphs 1 through 27, above, are incorporated herein by this reference as if they were set forth here in their entirety.

43. 40 C.F.R. § 68.67 requires owners and operators to perform PHAs at least every five years.



44. 40 C.F.R. § 68.67(e) requires that the owner or operator shall establish a system to promptly address the PHA team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.

45. EPA identified the following deficiencies in the PHA for the Facility: (a) delayed completion of critical safety system PHA recommendations,(b) inadequate and inaccurate recordkeeping of critical safety system recommendation due dates and completion status.

46. By failing to comply with the PHA requirements to promptly address the PHA team's findings and recommendations, to assure that the recommendations are resolved and documented in a timely manner, and to complete actions as soon as possible, Respondent violated 40 C.F.R. § 68.67(e).

#### COUNT 4

#### **(Mechanical Integrity)**

47. Paragraphs 1 through 27, above, are incorporated herein by this reference as if they were set forth here in their entirety.

48. 40 C.F.R. § 68.73(d)(4) sets forth an inspection and testing requirement for process equipment that the owner or operator shall document each inspection and test that has been performed on process equipment; the documentation shall identify the date of the inspection or test, the name of the person who performed the inspection or test, the serial

number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test.

49. Respondent did not have documentation of non-destructive testing conducted in September 2016.

50. By failing to comply with the mechanical integrity requirement for inspection and testing with respect to documentation for non-destructive testing, Respondent violated 40 C.F.R. § 68.73(d)(4).

51. 40 C.F.R. 68.73(e) requires that the owner or operator shall correct deficiencies in equipment that are outside acceptable limits (defined by the process safety information in 40 C.F.R. § 68.65) before further use or in a safe and timely manner when necessary to assure safe operation.

52. EPA identified deficiencies at the Facility: (a) equipment damage, (b) frost/surface corrosion on ammonia equipment, (c) delayed completion of critical safety system items from the 2019 Mechanical Integrity Audit, and (d) operation of multiple pressure vessels past due for recommended replacement.

53. By failing to comply with the mechanical integrity requirement to correct deficiencies in equipment that are outside acceptable limits before further use or in a safe and timely manner when to assure safe operation, Respondent violated 40 C.F.R. § 68.73(e).

**COUNT 5**  
**(Compliance Audit)**

54. Paragraphs 1 through 27, above, are incorporated herein by this reference as if they were set forth here in their entirety.

55. 40 C.F.R. 68.79(d) requires the owner or operator to promptly determine and document an appropriate response to each of the findings in the compliance audit, and document that deficiencies have been corrected. 40 C.F.R. § 68.79(a) requires the owner or operator to certify that they have evaluated compliance with the provisions of 40 C.F.R. Part 68, Subpart D at least every three years to verify that procedures and practices developed under this subpart are adequate and are being followed.

56. The 2018 compliance audit of the Facility found instances where the auditor indicated RAGAGEP for the refrigeration system; however, EPA's inspection observed numerous inconsistencies between the actual refrigeration system versus the refrigeration design and operating standards, and that the refrigeration system was not in conformance with the RAGAGEP identified in Respondent's 2018 compliance audit.

57. By failing to comply with the requirements to promptly determine and document an appropriate response to the findings of the compliance audit and document that deficiencies have been corrected, and by failing to certify that procedures and practices are adequate or being followed, Respondent violated 40 C.F.R. § 68.79(d) and (a).

**COUNT 6**

**(Emergency Response Training)**

58. Paragraphs 1 through 27, above, are incorporated herein by this reference as if they were set forth here in their entirety.

59. 40 C.F.R. § 68.95(a) requires the owner or operator of a facility to develop and implement an emergency response program for the purpose of protecting public health and the environment. Such program shall include training for all employees in relevant procedures. *Id.* § 68.95(a)(3).

60. Respondent did not provide consistent training and information to its employees regarding evacuation from the Facility if an ammonia release were to occur.

61. By failing to provide training for employees in relevant emergency response procedures, Respondent violated 40 C.F.R. § 68.95(a).

**D. CIVIL PENALTY**

62. EPA proposes that Respondent be assessed, and Respondent agrees to pay, **ONE-HUNDRED EIGHTY-EIGHT THOUSAND EIGHT-HUNDRED EIGHTY-TWO DOLLARS (\$188,882)** as the civil penalty for the violations alleged herein.

63. The proposed penalty was calculated in accordance with the “Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68” dated June 2012, and the “Enforcement Response Policy for Sections 304, 311, and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act” dated September 30, 1999, and was adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act, as amended, and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19.

**E. RESPONDENT’S ADMISSIONS**

64. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CA/FO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in the CA/FO; (iii) consents to any and all conditions specified in this CA/FO and to the assessment of the civil administrative penalty under Section H of this CA/FO; (iv) waives any right to contest the allegations contained in Section C of the CA/FO; and (v) waives the right to appeal the proposed final order contained in this CA/FO.

**F. PARTIES BOUND**

65. This CA/FO shall apply to and be binding upon Respondent, and its successors and assigns, until such time as the civil penalty required under Section D (and any additional civil penalty required under Section I) have been paid, the compliance tasks required under Section G have been completed, and any delays in performance and/or stipulated penalties have been resolved.

66. No change in ownership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.

67. Until all requirements of this CA/FO are satisfied, Respondent shall give notice of this CA/FO to any successor in interest prior to transfer of ownership or operation of the Facility and shall notify EPA within seven (7) days prior to such transfer.

68. The undersigned representative of Respondent hereby certifies that he or she is fully authorized by Respondent to enter into and execute this CA/FO, and to legally bind Respondent to it.

**G. COMPLIANCE TASKS**

69. All submissions to EPA in this section shall be in writing and submitted to Bridget Johnson at EPA, at johnson.bridget@epa.gov.

70. Extension(s) of Time. Respondent shall complete each task required in this section by the associated deadline for the task. If Respondent is unable to complete any of the tasks required in this section by the associated deadline, Respondent shall submit a written request for a modification, including the basis for the request, to EPA. Respondent shall submit this request within seven (7) days of identifying a need for a modification. Based on this request, EPA may in its sole discretion grant or deny, in full or in part, the request for modification. EPA shall respond as soon as possible and within no later than 30 days after receipt of a request for extension of time.

71. Progress Reports. Respondent shall submit written progress reports to EPA (“Progress Report”). Each Progress Report shall confirm completion of all significant activities during the current reporting period or describe any problems and resolutions; and describe the activities anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions. Concerning the compliance tasks in this Section (Compliance Task #1, Compliance Task #2 and Compliance Task #3), Respondent shall submit a progress report no later than December 31, 2021. If any compliance task is not complete at the time the progress report is submitted, Respondent shall submit additional progress reports on those compliance tasks every 90 days thereafter until completion.

72. Compliance Condition. Progress Reports on the Status of Vessel Replacement. As a condition of compliance, Respondent shall submit progress reports to EPA regarding the

status of replacing the pressure vessels in its ammonia refrigeration system that are listed in Attachment A: Vessel Replacement Schedule, including certification under penalty of law that for each vessel replacement Respondent complied with industry standards. Respondent shall submit these progress reports by no later than June 30, 2022, November 30, 2022 and June 30, 2023. Extensions of time for this compliance condition will follow the procedure provided in Paragraph 70.

73. Compliance Task #1. Respondent shall replace the louvered doors on the North and South AMRs with solid panel doors that meet the industry standard for “Door Features” at International Institute of Ammonia Refrigeration (“IIAR”) 9-2020 § 7.3.9.2. Respondent shall certify, under penalty of law, that it has achieved compliance with applicable industry standards for AMR ventilation inlet air flow, including industry standard “Inlet Air” at IIAR 9-2020 § 7.3.14, and must submit this certification to EPA. The deadline for completion of this task is no later than December 31, 2021.

74. Compliance Task #2. Respondent shall update the information pertaining to the equipment in the process to include accurate relief system design and design basis in accordance with 40 C.F.R. § 68.65(d)(1)(iv). The deadline for completion of this task is no later than December 31, 2021.

75. Compliance Task #3. Respondent shall address the Mechanical Integrity Audit recommendations listed in Attachment B: “Compliance Task #3: Mechanical Integrity Audit Recommendations.” The deadline for completion of this task is no later than December 31, 2021.

76. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Section G (Compliance Tasks section) except for Paragraph 72 of that section, is restitution, remediation or required to come into compliance with the law.

**H. PAYMENT OF CIVIL PENALTY**

77. Respondent consents to the assessment of and agrees to pay civil penalties of **ONE-HUNDRED EIGHTY-EIGHT THOUSAND EIGHT-HUNDRED EIGHTY-TWO DOLLARS (\$188,882)** in settlement of the civil penalty claims made in this CA/FO.

78. Respondent shall pay the civil penalty within thirty (30) days of the Effective Date of this CA/FO, as established in Section L of this CAFO.

79. All payments shall indicate Respondent's name and the appropriate EPA docket number of this action. Payment shall be made by corporate, certified, or cashier's checks payable to "Treasurer of the United States" and sent as follows:

Regular Mail:

U.S. Environmental Protection Agency  
P.O. Box 979077  
St. Louis, MO 63197-9000

Overnight Mail:

U.S. Environmental Protection Agency  
Government Lock Box 979077  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101  
Contact: Craig Steffen (513-487-2091)

Alternatively, payment may be made by electronic transfer as provided below:

Wire Transfers:



Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency”

ACH (also known as REX or remittance express):

ACH payments to EPA can be made through the US Treasury using the following information:

US Treasury REX/Cashlink ACH Receiver  
  
ABA: 051036706  
Account Number: 310006  
Environmental Protection Agency  
CTX Format Transaction Code 22-checking

Physical Location of US Treasury Facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Remittance Express (REX): 1-866-234-5681

Online Payment:

This payment option can be accessed from the information below:

[www.pav.gov](http://www.pav.gov)

Enter “**SFO 1.1**” in the search field

Open form and complete required fields

Respondent shall send a copy of each check, or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, via electronic mail with a transmittal letter indicating Respondent’s name, the case title, and docket number, to both:

Regional Hearing Clerk (RC-1)  
U.S. Environmental Protection Agency - Region 9  
R9HearingClerk@epa.gov

and

Bridget Johnson  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency - Region 9  
Johnson.Bridget@epa.gov

80. Failure to send the penalty so that it is received by the due date will result in imposition of interest from the Effective Date of this CA/FO at the current interest rate published by the U.S. Treasury, as described at 40 C.F.R. §13.11. In addition, a six percent (6%) per annum penalty that will be assessed monthly will be applied on any principal amount not paid within ninety (90) days of the due date.

81. The penalties specified in this CA/FO shall represent civil penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

**I. DELAY IN PERFORMANCE/STIPULATED PENALTIES**

82. In the event Respondent fails to meet any requirement or condition set forth in this CA/FO, Respondent shall pay stipulated penalties as follows: THREE HUNDRED SEVENTY-FIVE DOLLARS (\$375) per day for the first to fifteenth day of delay, SEVEN HUNDRED FIFTY DOLLARS (\$750) per day for the sixteenth to thirtieth day of delay, and THREE THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$3,750) per day for each day of delay thereafter. Compliance by Respondent shall include completion of any activity under this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.

83. Stipulated penalties shall begin to accrue on the day after performance is due and shall continue to accrue through the final day until performance is complete. Respondent shall pay stipulated penalties within fifteen (15) days of receipt of a written demand by Complainant for such penalties. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of penalties in Section G of this CA/FO.

84. If a stipulated penalty is not paid in full, interest shall begin to accrue on the unpaid balance at the end of the fifteen-day period at the current rate published by the United States Treasury, as described at 40 C.F.R. §13.11. Complainant reserves the right to take any additional action, including but not limited to, the imposition of civil penalties, to enforce compliance with this CA/FO or with the CAA and its implementing regulations.

85. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

86. Notwithstanding any other provision of this section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.

87. The determination of whether Respondent has satisfactorily complied with the terms of this CA/FO and the determination of whether Respondent has made a good faith, timely effort to complete the tasks required by this CA/FO are within the sole discretion of the Director, Enforcement and Compliance Assurance Division, EPA Region 9.

**J. RESERVATION OF RIGHTS**

88. Except as addressed in this CA/FO, EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under the CAA, EPCRA, or any other statutory, regulatory or common law enforcement authority of the United States. 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 the CAA, EPCRA, or any other statutory, regulatory or common law enforcement authority of the United States.

89. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with the CAA, EPCRA, or any other applicable local, state, tribal or federal laws and regulations. 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 nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, tribal, state or local permit.

90. 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 those matters resolved by this CA/FO. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged in this CA/FO.

91. EPA reserves its right to seek reimbursement from Respondent for such additional costs as may be incurred by the United States in the event of delay of performance as provided by this CA/FO.

**K. MISCELLANEOUS**

92. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.

93. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

94. Each party to this action shall bear its own costs and attorney's fees.

95. Respondent consents to entry of this CA/FO without further notice.

**L. EFFECTIVE DATE**

96. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the Final Order contained in this CA/FO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

In the Matter of Giumarra Vineyards Corporation  
Consent Agreement and Final Order

Giumarra Vineyards Corporation


DATE: 3 OCTOBER 2021

BY:   
\_\_\_\_\_  
Wayne J. Childress  
CEO, Giumarra Vineyards Corporation

In the Matter of Giumarra Vineyards Corporation  
Consent Agreement and Final Order

United States Environmental Protection Agency, Region 9

DATE: \_\_\_\_\_

BY: **AMY MILLER-  
BOWEN** \_\_\_\_\_  
 Digitally signed by AMY MILLER-  
BOWEN  
Date: 2021.11.22 07:16:25 -08'00'

Amy C. Miller-Bowen  
Director  
Enforcement and Compliance Assurance Division

Attachment A: Compliance Condition: Status of Vessel Replacements

	<b>Pressure Vessel (location)</b>	<b>Replacement Schedule</b>
1	Storage 7 North Accumulator (Room #7 Vessel – North Zone)	June 30, 2022
2	Storage 7 South Accumulator (Room #7 Vessel – South Zone)	June 30, 2022
3	Storage 10 South Accumulator (Room #10 Vessel – South Zone)	June 30, 2022
4	Storage 18 South Accumulator (Room #18 Vessel – South Zone)	June 30, 2022
5	Storage 9 South Accumulator (Room #9 Vessel –South Zone)	June 30, 2022
6	Storage 18 North Accumulator (Room #18 Vessel – North Zone)	June 30, 2022
7	Storage 4 North Accumulator (Room #4 Vessel – North Zone)	June 30, 2022
8	Storage 20 South Accumulator (Room #20 Vessel – South Zone)	End of November 2022
9	Storage 21 South Accumulator (Room #21 Vessel – South Zone)	End of November 2022
10	Storage 19 South Accumulator (Room #19 Vessel – South Zone)	End of November 2022
11	Storage 20 North Accumulator (Room #20 Vessel – North Zone)	End of November 2022
12	Storage 9 North Accumulator (Room #9 Vessel – North Zone)	End of November 2022
13	Storage 15 South Accumulator (Room #15 Vessel – South Zone)	End of November 2022
14	Storage 17 North Accumulator (Room #17 Vessel – North Zone)	End of November 2022
15	Storage 19 North Accumulator (Room #19 Vessel – North Zone)	End of November 2022
16	Storage 14 Accumulator (Room #14 Vessel)	End of November 2022
17	Storage 4 South Accumulator (Room #4 Vessel –South Zone)	End of November 2022
18	Storage 15 North Accumulator (Room #15 Vessel – North Zone)	End of June 2023



In the Matter of Giumarra Vineyards Corporation  
 Consent Agreement and Final Order

	<b>Pressure Vessel (location)</b>	<b>Replacement Schedule</b>
19	Storage 17 South Accumulator (Room #17 Vessel – South Zone)	End of June 2023
21	Storage 16 North Accumulator (Room #16 Vessel – North Zone)	End of June 2023
22	Storage 16 South Accumulator (Room #16 Vessel – South Zone)	End of June 2023
23	Storage 21 North Accumulator (Room #21 – North Zone)	End of June 2023
24	Storage 10 North Accumulator (Room #10 Vessel – North Zone)	End of June 2023
25	Storage 11 Accumulator (Room #11 Insulated Vessel)	End of June 2023
26	Storage 12 Accumulator (Room #11 Insulated Vessel)	End of June 2023
27	Storage 11 Oil Pot	End of June 2023
28	Storage 12 Oil Pot	End of June 2023

Attachment B: Compliance Task #3: Mechanical Integrity Audit Recommendations

<b>Task Number</b>	<b>Recommendation and Work Order Numbers (Giumarra Vineyards Management System)</b>	<b>Recommendation Description</b>
7	2-2998	Add a pipe label to the drop legs in the cold rooms and bunker vessel.
11	5-2927	Add ammonia labeling in accordance with IIAR Bulletin #114 to the cold rooms #14-#21.
13	1-2960	Add a label to the P04(S) high level alarm (blue light) for the liquid recirculatory vessel.
25	1-3082	Add supports/bracing to P03 liquid transfer vessel and piping.
27	1-3097	Add pipe support/bracing to the P04(S) precools #8, #10, #11 and #13 vessel columns and piping.
28	1-3099	Repair the damaged P04(S) precool #10 bunker floor.
29	1-3100	Fix corrosion on P04(S) precools #11 and #13 drain valve, and paint to prevent further corrosion.
32	1-3064	Label the piping on the P04(S) precools #3-#7 bunker ammonia piping according to IIAR Bulletin #114.
36	2-3103	Add bracing to the P04(S) rooms #2 and #3 bunker vessel float column to prevent movement.
37	1-3108	Add bracing to the P04(S) rooms #7-#10 wall piping (valve groups) to prevent movement.
38	2-3108	Repair the electrical conduit and remove the exposed wiring on the P04(S) room #7 roof ammonia pipe solenoid valve.
39	3-3108	Because the P04(S) rooms #7, #9 and #10 bunker vessels have moderate surface corrosion, and room #8 vessels are starting to form surface corrosion, remove all surface corrosion and paint vessels. If pitting exists, perform ultra-sonic thickness testing on vessels.

In the Matter of Giumarra Vineyards Corporation  
Consent Agreement and Final Order

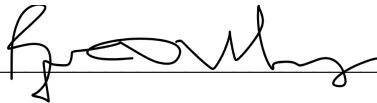
<b>Task Number</b>	<b>Recommendation and Work Order Numbers (Giumarra Vineyards Management System)</b>	<b>Recommendation Description</b>
42	1-3116	The P04(S) rooms #11 and #12 hydro vessels are missing name plates and attached oil pots are insulated without visible name plates. Legible vessel name plates, vessel certification drawings and vessel manufacturer data reports are required, or the vessels must be recertified.

**FINAL ORDER**

**IT IS HEREBY ORDERED** that this Consent Agreement and Final Order (“CA/FO”) pursuant to 40 C.F.R. Sections 22.13 and 22.18 in the Matter of Giumarra Vineyards Corporation (Docket No. CAA(112R)-09-2022-0004) be entered and that Respondent shall pay a civil penalty of **ONE-HUNDRED EIGHTY-EIGHT THOUSAND EIGHT-HUNDRED EIGHTY-TWO DOLLARS (\$188,882)**, due within thirty (30) days from the Effective Date of this CA/FO, and implement the compliance tasks described in Section G, in accordance with all terms and conditions of this CA/FO.

November 30, 2021

Date



---

Beatrice Wong  
Regional Judicial Officer  
U.S. EPA, Region 9

CERTIFICATE OF SERVICE

This is to certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the matter of *Giumarra Vineyards Corp.* [ CAA(112R)-09-2022-0004 ], signed by the Regional Judicial Officer, has been filed with the Regional Hearing Clerk and was served on Respondent and Complainant as indicated below:

VIA E-MAIL:

Respondent:	Wayne Childress CEO Giumarra Vineyards Corp. wayne@grapeking.com
Counsel for Respondent:	Krista K. McIntyre Stoel Rives, LLP krista.mcintyre@stoel.com
Complainant:	Jon Owens Attorney Advisor Office of Regional Counsel Environmental Protection Agency, Region IX owens.jon@epa.gov

	<hr/> Steven Armsey Regional Hearing Clerk Environmental Protection Agency, Region IX
--	--