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HEARINGS CLERK
EPA - REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

ROYAL RIDGE FRUIT & COLD
STORAGE, LLC,

Royal City, Washington,

Respondent.

)
) DOCKET NO. EPCRA-10-2018-0203

)
) **CONSENT AGREEMENT**

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045, and Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9609.

1.2. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 109 of CERCLA, 42 U.S.C. § 9609, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and Royal Ridge Fruit & Cold Storage, LLC ("Respondent") agrees to issuance of, the Final Order attached to this Consent Agreement ("Final Order").

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 ("Complainant") has been delegated the authority pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 109 of CERCLA, 42 U.S.C. § 9609, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of EPCRA and CERCLA are proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of EPCRA and CERCLA together with the specific provisions of EPCRA and CERCLA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

3.1 Under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6, any person in charge of an onshore facility shall, as soon as he or she has knowledge of any release of a hazardous substance from such facility in a quantity equal to or greater than the reportable quantity ("RQ") listed in 40 C.F.R. § 302.4, immediately notify the National Response Center ("NRC") of such release.

3.2 Ammonia is a hazardous substance listed in 40 C.F.R. § 302.4 with an RQ of 100 pounds.

3.3 Under Section 304 of EPCRA, 42 U.S.C. § 11004 and 40 C.F.R. Part 355, if a release of an extremely hazardous substance occurs from a facility at which a hazardous chemical is produced, used, or stored, and such release requires notification under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), the owner or operator of the facility shall immediately provide notice of the release to the State Emergency Response Commission (“SERC”) of any state likely to be affected by the release and the community emergency coordinator for the Local Emergency Planning Committee (“LEPC”) of any area likely to be affected by the release.

3.4 Pursuant to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2), extremely hazardous substances are listed in 40 C.F.R. Part 355, Appendices A and B.

3.5 Ammonia is an extremely hazardous substance listed in 40 C.F.R. Part 355, Appendices A and B.

3.6 Under Section 304 of EPCRA, 42 U.S.C. § 11004 and 40 C.F.R. Part 355, if a release of an extremely hazardous substance occurs from a facility at which a hazardous chemical is produced, used, or stored, and such release requires notification under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), the owner or operator of the facility shall provide a written follow-up emergency notice as soon as practicable after the release.

3.7 Under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), “person” means, *inter alia*, a corporation.

3.8 Under Section 101(9)(A) of CERCLA, 42 U.S.C. § 9601(9)(A), “facility” means any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft.

3.9 Under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), “facility” means all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person).

3.10 Respondent is a corporation located and incorporated in the State of Washington.

3.11 Respondent owns and/or operates a cold storage facility at 13215 Road F Southwest in Royal City, Washington (“the Facility”).

3.12 Respondent is a “person” as defined in CERCLA Section 101(21), 42 U.S.C. § 9601(21), and EPCRA Section 329(7), 42 U.S.C. § 11049(7).

3.13 Respondent is the “owner or operator” and is in charge of the Facility.

3.14 The Facility is a “facility” as defined by Section 101(9)(A) of CERCLA, 42 U.S.C. § 9601(9)(A), and Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

3.15 Respondent uses ammonia in its refrigeration system at the Facility.

3.16 Subject to certain exclusions not relevant here, Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), defines “release” as any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment.

3.17 Section 329(8) of EPCRA, 42 U.S.C. § 11049(8), defines “release” as any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of any hazardous chemical, extremely hazardous substance, or toxic chemical.

3.18 On August 10, 2015, at approximately 8:30 a.m., there was a release of ammonia from the Facility by means of emission into the air in quantities greater than the RQ.

3.19 Respondent had knowledge that more than the RQ of ammonia had been released from the Facility on or around the time the release began.

COUNT 1

3.20 Respondent notified the NRC of the release of ammonia from the Facility at 1:38 p.m. on August 10, 2015, more than 5 hours after Respondent had knowledge of the release.

3.21 Respondent's failure to immediately notify the NRC of the release of ammonia is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a) and 40 C.F.R. § 302.6.

COUNT 2

3.22 Respondent notified the SERC of the release of ammonia from the Facility at 11:48 a.m. on August 10, 2015, more than 3 hours after Respondent had knowledge of the release.

3.23 Respondent's failure to immediately notify the SERC of the release of ammonia is a violation of Section 304 of EPCRA, 42 U.S.C. § 11004, and 40 C.F.R. §§ 355.42(a)(2) and 355.43(a).

COUNT 3

3.24 Respondent did not notify the LEPC of the release of ammonia from the Facility after Respondent had knowledge of the release.

3.25 Respondent's failure to immediately notify the LEPC of the release of ammonia is a violation of Section 304 of EPCRA, 42 U.S.C. § 11004, and 40 C.F.R. §§ 355.42(a)(1) and 355.43(a).

COUNT 4

3.26 Respondent failed to submit a written follow-up emergency notice as soon as practicable to the LEPC regarding the release of ammonia from the Facility on August 10, 2015.

3.27 Respondent's failure to provide a written follow-up emergency notice to the LEPC as soon as practicable after the release is a violation of Section 304 of EPCRA, 42 U.S.C. § 11004, and 40 C.F.R. §§ 355.42(a)(1) and 355.43(b).

ENFORCEMENT AUTHORITY

3.28 Under Section 325 of EPCRA, 42 U.S.C. § 11045, Section 109 of CERCLA, 42 U.S.C. § 9609, and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$37,500 for each violation, per day.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by Section 325(b) of EPCRA, 42 U.S.C. § 11045(b), and Section 109(a)(3) of CERCLA, 42 U.S.C. § 9609(a)(3), EPA has taken into account the nature, circumstances, extent and gravity of the violations, and with respect to Respondent, ability to pay, any prior history of such violations, the degree of culpability, effect on Respondent's ability to continue to do business, economic benefit or savings (if any) resulting from the violations, and such other matters as justice may require. After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$75,000 (the "Assessed

Penalty”), \$19,500 of which reflects alleged violations of CERCLA, and \$55,500 of which reflects alleged violations of EPCRA.

4.4. Respondent does not admit liability, but agrees to settle this matter as described herein.

4.5. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

4.6. Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier’s check or certified check must be payable to the order of “Treasurer, United States of America” and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action. Respondent must also include a note with the payment indicating that \$19,500 is for the CERCLA penalty and \$55,500 is for the EPCRA penalty.

4.7. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
young.teresa@epa.gov

Erin Williams
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
williams.erin@epa.gov

4.8. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of the Assessed Penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action under Section 325(f)(1) of EPCRA, 42 U.S.C. § 11045(f)(1), and/or Section 109 of CERCLA, 42 U.S.C. § 9609, to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below.

4.9. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, Respondent shall also be responsible for payment of the following amounts:

4.9.1. Interest. Pursuant to 31 U.S.C. § 3717(a)(1), any unpaid portion of the Assessed Penalty shall bear interest at the rate established by the Secretary of the Treasury from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order contained herein.

4.9.2. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the Assessed Penalty is more than 30 days past due.

4.9.3. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the Assessed Penalty that is

more than 90 days past due, which nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

4.10. The Assessed Penalty, including any additional costs incurred under Paragraph 4.8, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.11. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.12. Except as described in Paragraph 4.8, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.13. For the purposes of this proceeding, Respondent expressly waives any right to contest the allegations contained in this Consent Agreement and to appeal the Final Order.

4.14. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

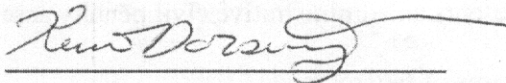
4.15. Respondent consents to any conditions specified in this consent agreement.

4.16. The above provisions in Part IV are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

12/6/17

FOR RESPONDENT:

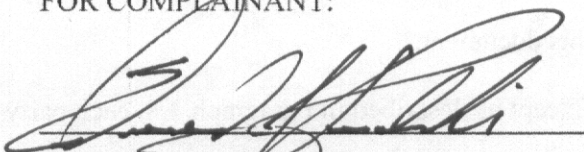


KEVIN DORSING, Chief Executive Officer
Royal Ridge Fruit & Cold Storage, LLC

DATED:

12/7/2017

FOR COMPLAINANT:



EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	
)	DOCKET NO. EPCRA-10-2018-0203
ROYAL RIDGE FRUIT & COLD)	
STORAGE, LLC,)	FINAL ORDER
)	
Royal City, Washington,)	
)	
Respondent.)	

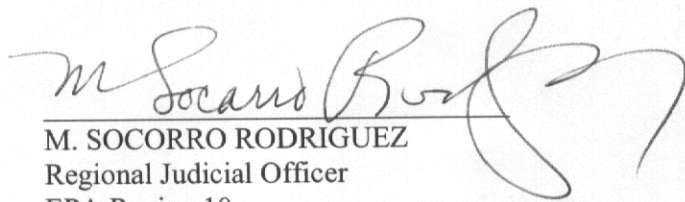
1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under EPCRA and CERCLA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of EPCRA and CERCLA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 11th day of December, 2017.


M. SOCORRO RODRIGUEZ
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Royal Ridge Fruit & Cold Storage, LLC, Docket No.: EPCRA-10-2018-0203**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:


The undersigned certifies that a true and correct copy of the document was delivered to:

Danielle Meinhardt
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Kevin Dorsing
Chief Executive Officer
Royal Ridge Fruit & Cold Storage, LLC
P.O. Box 428
Royal City, Washington 99357

DATED this 11 day of December, 2017.



TERESA YOUNG
Regional Hearing Clerk
EPA Region 10

Form 1041-10

The undersigned certifies that the information shown on the enclosed Form 1041-10 is true and correct to the best of his knowledge and belief and that he is a resident of the State of California.

Signature of Taxpayer: _____

Printed Name: _____
Address: _____
City: _____
State: _____
Zip: _____

Signature of Preparer: _____
Printed Name: _____
Address: _____
City: _____
State: _____
Zip: _____

Signature of Client: _____
Printed Name: _____
Address: _____
City: _____
State: _____
Zip: _____

Tom King
12345
67890
10111
12131

John Doe
12345
67890
10111
12131