



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

AUG - 2 2012

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Jan Kucharski, President
Summit Cold Storage Corporation
5450 South Center Avenue
Summit Argo, Illinois 60501

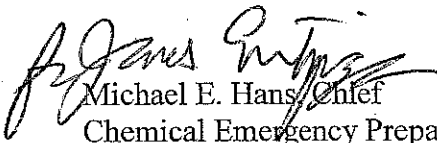
Re: Summit Cold Storage Corporation, Summit Argo, Illinois, Consent Agreement and Final Order, Docket No. EPCRA-05-2012-0006

Dear Mr. Kucharski:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on AUG - 2 2012.

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 Cathleen Martwick, Associate Regional Counsel, at (312) 886-7166. Thank you for your assistance in resolving this matter.

Sincerely,


Michael E. Hans, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

cc: Jon England, Legal Counsel (w/ enclosure)
Kathy Allen (w/ enclosure)
IL SERC

Mr. Lloyd M. Sonenthal
Attorney
70 West Madison Street, Suite 400
Chicago, Illinois 60602

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No. EPCRA-05-2012-0006
)
Summit Cold Storage Corporation) Proceeding to Assess a Civil Penalty Under
Summit Argo, Illinois) Section 325 (c)(1) and (c)(2) of the Emergency
) Planning and Community Right-to-Know Act
)
Respondent.)

Consent Agreement and Final Order

1. The Complainant is, by lawful delegation, the Chief of the Enforcement and Compliance Assurance Branch, United States Environmental Protection Agency (U.S. EPA), Region 5.
2. On February 1, 2012, U.S. EPA filed the Complaint in this action against Respondent Summit Cold Storage Corporation. The Complaint alleges that Respondent violated Section 311 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11021, by failing to submit to the Illinois State Emergency Response Commission (SERC), the Cook County, Illinois Local Emergency Planning Committee (LEPC), and Summit Fire Department a Material Safety Data Sheet or a list for anhydrous ammonia, sulfuric acid, and lead; and violated Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), by failing to submit to the Illinois SERC, the Cook County, Illinois LEPC, and Summit Fire Department completed Emergency and Hazardous Chemical Inventory Forms for anhydrous ammonia, sulfuric acid, and lead.
3. Respondent filed an Answer and requested a hearing under Section 325(b)(1)(B) of EPCRA, 42 U.S.C. § 11045(b)(1)(B).

Stipulations

4. Respondent admits the jurisdictional and factual allegations in the Complaint.

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

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

7. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

8. In consideration of Respondents inability to pay the penalty, Complainant has determined that an appropriate civil penalty to settle this action is \$0 for the EPCRA violations.

General Provisions

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

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

11. Respondent certifies that it is complying with Sections 311 and 312(a) of EPCRA, 42 U.S.C. §§ 11021 and 11022(a).

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

13. This CAFO is a "final order" for purposes of U.S. EPA's 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.

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

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

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

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

Summit Cold Storage Corporation, Respondent

7/23/12
Date

Jan Kucharski
Jan Kucharski
President
Summit Cold Storage Corporation

U.S. Environmental Protection Agency, Complainant

7/31/12
Date

Sharon Jaffess
Sharon Jaffess, Chief
Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5

7/31/12
Date

Richard C. Karl
Richard C. Karl, Director
Superfund Division
U.S. Environmental Protection Agency
Region 5

**In the Matter of: Summit Cold Storage Corporation, Summit Argo, Illinois
Docket No. EPCRA-05-2012-0006**

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.

8-2-12

Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

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**In the Matter of: Summit Cold Storage Corporation, Summit Argo, Illinois
Docket No. EPCRA-05-2012-0006**

Certificate of Service

I, James Entzminger, certify that I filed the original and a copy of the Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5, and mailed a second original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to Respondent by placing it in the custody of the United States Postal Service addressed as follows:

Mr. Jan Kucharski, President
Summit Cold Storage Corporation
5450 South Center Avenue
Summit Argo, Illinois 60501

Mr. Lloyd M. Sonenthal
Attorney
70 West Madison Street, Suite 400
Chicago, Illinois 60602

I also certify that I mailed a copy of the CAFO by first-class mail, addressed as follows:

Honorable Susan L. Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
Ariel Rios Building/Mail Code 1900L
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

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on the 2 day of August, 2012


James Entzminger
U.S. Environmental Protection Agency
Region 5