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REGION 10

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EPA -- REGION 10
OFFICE OF COMPLIANCE AND ENFORCEMENT

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: EPCRA-10-2018-0290
This ESA is issued to: Scarsella Brothers, Inc.
19440 84th Avenue South
Kent, Washington 98032

This Expedited Settlement Agreement (ESA) is being entered into by the United States Environmental Protection Agency (EPA), Region 10, by its duly delegated official, and by Scarsella Brothers, Inc. (Respondent) pursuant to section 325 of the Emergency Planning and Community Right-To-Know Act (EPCRA), 42 U.S.C. § 11045, and 40 C.F.R. § 22.13(b).

ALLEGED VIOLATION

Section 312 of EPCRA and the regulations at 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 ("MSDS") for a hazardous chemical to prepare and submit a Tier II emergency and hazardous chemical inventory form ("Tier II Form") to the appropriate local emergency planning committee ("LEPC"), state emergency response commission ("SERC"), and local fire department by March 1, containing data with respect to the preceding calendar year. The required data includes estimates of the average and maximum quantities of each hazardous chemical stored in excess of the threshold quantity. 40 C.F.R. § 370.42.

EPA alleges that Respondent, owner and/or operator of the facility at 19440 84th Avenue South, Kent, Washington 98032 (Facility). Respondent stores Diesel Fuel No. 2 and Lube Oil at the Facility. Diesel Fuel No. 2 and Lube Oil are "hazardous chemicals," as defined by 40 C.F.R. § 370.66 with a threshold quantity of 10,000 pounds.

During calendar year 2017, the Facility stored over 210,000 pounds of Diesel Fuel No. 2, an amount at or above the threshold quantity for reporting. Additionally, the Facility stored over 22,800 pounds of Lube Oil, an amount at or above the threshold quantity for reporting. Respondent failed to submit a Tier II Form to the LEPC, SERC, and local fire department for calendar year 2016 by March 1, 2017, in violation of EPCRA § 312 and 40 C.F.R. § 370.45(a).

SETTLEMENT

EPA and Respondent agree that settlement of this matter for a penalty of **FIVE THOUSAND DOLLARS (\$5,000)** is in the public interest. In signing this ESA, Respondent: (1) admits that Respondent is subject to the requirements of Section 312 of EPCRA; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty and

any conditions stated in this ESA; and (5) waives any right to contest the allegations contained herein and to appeal the Final Order accompanying this agreement.

By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the alleged violations have been corrected. Each party agrees that it shall bear its own costs and fees, if any.

Respondent agrees to submit payment in full of the \$5,000 within 30 days of the Final Order issued by the EPA Regional Judicial Officer.

Payment instructions are included on the enclosed "Payment Instructions," which is hereby incorporated by reference.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature: *Gino Scarsella*
Name (print): GINO SCARSELLA, VP
Title (print): VICE PRESIDENT

Date: 6/12/18

FOR COMPLAINANT:

Edward J. Kowalski
Edward J. Kowalski
Director
Office of Compliance and Enforcement

Date: 6-15-18

FINAL ORDER

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

Richard Mednick
Richard Mednick
Regional Judicial Officer

Date: 6/27/18

PAYMENT INSTRUCTIONS

Respondent may pay the penalty by check (mail or overnight delivery), wire transfer, ACH, or online payment. Additional 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, Missouri 63197-9000

If paid by check, the docket number of the ESA must be included on the check. The docket number is located at the top of this ESA.

Concurrently with payment, Respondent must send photocopies of the check, or proof of other payment method to the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
young.teresa@epa.gov

Erin Williams
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
williams.erin@epa.gov



Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Scarsella Brothers, Inc., Kent, Washington, Docket No.: EPCRA-10-2018-0290**, 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:

Erin Williams, EPCRA Coordinator
Office of Compliance and Enforcement
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 155, Mail Stop: OCE-101
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:

Mr. Gino Scarsella
Vice President
Scarsella Brothers, Inc.
19440 84th Avenue South
Kent, Washington 98032

DATED this 27 day of June, 2018



Signature

Teresa Young
Regional Hearing Clerk
EPA Region 10

