



September 23, 2021

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

12:58 PM

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

Received by
EPA Region VIII
Hearing Clerk

DOCKET NO.: EPCRA-08-2021-0002

IN THE MATTER OF:

**MOUNTAIN MEADOWS LAMB
CORPORATION (dba SUPERIOR FARMS, INC.)**

FINAL ORDER

RESPONDENT

Pursuant to 40 C.F.R. § 22.13(b) and §§ 22.18(b)(2) and (3) of EPA’s Consolidated Rules of Practice, the Expedited Settlement Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Expedited Settlement Agreement, effective immediately upon filing this Expedited Settlement Agreement and Final Order.

SO ORDERED THIS 23rd **DAY OF** September, **2021.**

**KATHERIN
HALL** Digitally signed by
KATHERIN HALL
Date: 2021.09.23
12:57:04 -06'00'

Katherin E. Hall
Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Received by
EPA Region VIII
Hearing Clerk

IN THE MATTER OF:)
)
Mountain Meadows Lamb)
Corporation)
(doing business as)
Superior Farms, Inc.))
4900 Clarkson Street)
Denver, CO 80216)
)
)
Respondent.)
)
)
)

Docket No.: EPCRA-08-2021-0002

EXPEDITED SETTLEMENT AGREEMENT

AUTHORITY

1. This Expedited Settlement Agreement (ESA), which is intended to simultaneously commence and conclude this matter, is being entered into by the United States Environmental Protection Agency (EPA), Region 8, by its duly delegated official, the division director of the Enforcement and Compliance Assurance Division, and Mountain Meadows Lamb Corporation. (Respondent). This matter is authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
2. The EPA and Respondent agree that the EPA has jurisdiction over this matter pursuant to section 325 of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA) 42 U.S.C. § 11045.
3. Respondent agrees that the EPA has jurisdiction and venue over the matters contained in this agreement, however, Respondent neither admits nor denies the EPA's specific factual allegations contained herein.

RESPONDENT

4. Respondent is a Colorado incorporated company authorized to do business in the state of Colorado.
5. Respondent is a "person" under section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
6. Respondent is the owner or operator of the Superior Farms, Inc., animal slaughtering facility, which fits the meaning of "facility" defined by section 329(4) of EPCRA, 42 U.S.C. § 11049(4), located at 4900 Clarkson Street, Denver, Colorado 80216 (Facility).

ALLEGED VIOLATIONS

7. On January 13, 2020, an authorized representative of the EPA conducted a compliance inspection of the Facility to determine compliance with the EPCRA regulations promulgated at 40 C.F.R. Part 370 (Inspection).
8. At all times relevant to this matter, the Facility stored hazardous chemicals as defined by 29 C.F.R. § 1910.1200(c).
9. Respondent is required to file an annual Tier II inventory report for hazardous chemicals stored in excess of established thresholds. These thresholds are codified at 40 C.F.R. § 370.10 and the reporting requirements are codified at 40 C.F.R. § 370.20.
10. During the Inspection, the Facility was storing anhydrous ammonia, used as refrigerant, in excess of the threshold of 500 pounds and sulfuric acid in excess of the threshold of 500 pounds.
11. Respondent was required to submit its Tier II form for reporting year 2017 on or before March 1, 2018, under section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations at 40 C.F.R. Part 370.
12. For reporting year 2017, Respondent stored anhydrous ammonia and sulfuric acid at the Facility in an amount equal to or in excess of the threshold quantity.
13. For reporting year 2017, Respondent failed to include anhydrous ammonia and sulfuric acid in its Tier II form as required by section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations at 40 C.F.R. Part 370.
14. Respondent was required to submit its Tier II form for reporting year 2018 on or before March 1, 2019, under section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations at 40 C.F.R. Part 370.
15. For reporting year 2018, Respondent stored anhydrous ammonia and sulfuric acid at the Facility in an amount equal to or in excess of the threshold quantity.
16. For reporting year 2018, Respondent failed to include sulfuric acid in its Tier II form as required by section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations at 40 C.F.R. Part 370.
17. By failing to include the anhydrous ammonia and sulfuric acid in its Tier II form for the reporting years 2017 and 2018, Respondent violated section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations at 40 C.F.R. Part 370.

SETTLEMENT

18. The EPA and Respondent agree settlement of this matter is in the public interest, and the EPA and Respondent agree that execution of this agreement and issuance of a final order without further litigation and without adjudication of any issue of fact or law is the most appropriate means of resolving this matter.
19. This agreement contains all terms of the settlement agreed to by the parties.

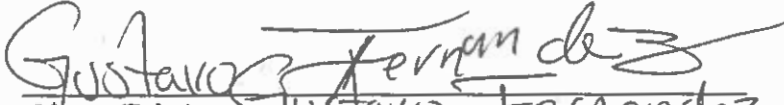
20. Pursuant to section 325 of EPCRA, 42 U.S.C. § 11045, and based in part on the nature of the alleged violations and other relevant factors, the EPA agrees that an appropriate civil penalty to settle this matter is \$5,000.
21. This settlement is subject to the following terms and conditions with respect to the violations referenced above:
- a. Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained in this ESA, and consents to the assessment of the penalty as stated above.
 - b. Respondent waives its rights to a hearing afforded by section 325(b)(1)(B) of EPCRA, 42 U.S.C. § 11045(b)(1)(B), and to appeal this and to appeal this matter under EPCRA § 325(f), 42 U.S.C. § 11045(f).
 - c. Each party to this action shall bear its own costs and attorney fees, if any.
 - d. Respondent waives any and all available rights to judicial or administrative review or other remedies that the Respondent may have with respect to any issue of fact or law or any terms and conditions set forth in this ESA, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
22. By signing this ESA Respondent certifies that (1) the alleged violations listed in paragraphs 9 through 17 have been corrected, and (2) Respondent is submitting payment of the civil penalty as described below:
- a. Within 20 calendar days of receipt of this ESA, Respondent must pay the civil penalty using any method provided on the following website
<https://www.epa.gov/financial/makepayment>;
 - b. **The following payment tracking identification for this ESA must be included on either the check or other payment method: EPA-R8-EPCRA**
 - c. Within 24 hours of payment, email proof of payment to Daniel Webster at webster.daniel@epa.gov (“proof of payment” means, as applicable, an electronic copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate payment has been made according to the EPA requirements, in the amount due, and identified with the docket number that appears on the final order).
23. The signed ESA must be received by EPA, no later than 20 calendar days after Respondent’s receipt of the ESA. The signed ESA must be sent by certified mail to:

Daniel Webster, 8ENF-AT-P
US EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

Immediately after signing the ESA email a copy to Daniel Webster at webster.daniel@epa.gov.

24. Respondent agrees that the penalty specified in this ESA shall not be deductible for purposes of state or federal taxes.
25. Once Respondent receives a copy of the final order and pays in full the penalty as instructed above, the EPA agrees not to take any further civil administrative penalty action against Respondent for the violations alleged in this ESA.
26. This ESA does not pertain to any matters other than those expressly specified herein. The EPA reserves, and this ESA is without prejudice to, all rights against Respondent with respect to all other matters, including the following:
 - a. Claims based on a failure by Respondent to meet a requirement of this ESA including any claims for costs that are caused by Respondent's failure to comply with this Agreement.
 - b. Claims based on criminal liability.
 - c. Claims based on any other violations of the EPCRA or federal or state law.
27. If the signed ESA with proof of payment is not returned to the EPA Region 8 office at the above address by Respondent within 20 calendar days of the date of Respondent's receipt of this ESA, the proposed ESA is withdrawn without prejudice to the EPA's ability to file an enforcement action for the violations identified in this ESA.
28. This ESA, upon incorporation into the final order, applies to and is binding upon the EPA and Respondent and Respondent's successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this ESA. This ESA contains all terms of the settlement agreed to by parties.
29. Nothing in this ESA shall relieve Respondent of the duty to comply with the EPCRA and its implementing regulations.
30. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this ESA and to bind Respondent to the terms and conditions of this ESA.
31. The parties consent to service of this ESA and final order by email at the following valid email addresses: jackson.laurianne@epa.gov (for the EPA), and mike.wait@superiorfarms.com and gustavo.fernandez@superiorfarms.com (for Respondent).
32. The EPA agrees to submit this ESA to the regional judicial officer with a request that it be incorporated into a final order.


For Respondent, Mountain Meadows Lamb Corporation:


Name (Print) Gustavo Fernandez
Title (Print) General manager

Date: 09/14/2021

For Complainant, United States Environmental Protection Agency, Region 8:

**SUZANNE
BOHAN**

 Digitally signed by SUZANNE
BOHAN
Date: 2021.09.20 10:12:02 -06'00'

Date: _____

Suzanne J. Bohan, Director
Enforcement and Compliance Assurance Division

CERTIFICATE OF SERVICE

The undersigned certifies that the attached **EXPEDITED SETTLEMENT AGREEMENT** and the **FINAL ORDER** in the matter of **MOUNTAIN MEADOWS LAMB CORPORATION (dba SUPERIOR FARMS, INC.); DOCKET NO.: EPCRA-08-2021-0002** was filed with the Regional Hearing Clerk on September 23, 2021.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Laurianne Jackson, Enforcement Attorney, and sent via certified receipt email on September 23, 2021, to:

Respondent

Mr. Gustavo Fernandez, Facility Manager
Mountain Meadows Lamb Corporation (dba Superior Farms, Inc.)
4900 Clarkson Street
Denver, Colorado 80216
Gustavo.fernandez@superiorfarms.com

Mike Wait
Mike.wait@superiorfarms.com

EPA Financial Center

Peter Hendrickson
U. S. Environmental Protection Agency
Cincinnati Finance Center
Hendrickson.Peter@epa.gov

September 23, 2021

Haniewicz,
Melissa

Digitally signed by
Haniewicz, Melissa
Date: 2021.09.23
13:10:58 -06'00'

Melissa Haniewicz
Regional Hearing Clerk