



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2015 JAN 20 AM 8:28

1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>


FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2014-0030

IN THE MATTER OF:)	
)	
GRATECH COMPANY, LTD.)	FINAL ORDER
)	
RESPONDENT)	

Pursuant to 40 C.F.R. § 22.18, of EPA’s Consolidated Rules of Practice, the Consent 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 Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 20th DAY OF January, 2015.



Elyana R. Sutin
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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HEARING CLERK

IN THE MATTER OF:)

Gratech Company, Ltd.,)

Respondent.)

CONSENT AGREEMENT

Docket No. CWA-08-2014-0030

Region 8 of the United States Environmental Protection Agency (EPA) and Gratech Company, Ltd. (Respondent), by their undersigned representatives, agree as follows:

1. On September 12, 2014, the EPA issued a Complaint and Notice of Opportunity for Hearing (Complaint) alleging that at a mobile field fueling maintenance site in New Town, North Dakota, the Respondent had violated certain provisions of 40 C.F.R. part 112, a regulation that was promulgated pursuant to section 311(j)(1)(C) of the Clean Water Act (Act), 33 U.S.C. § 1321(j)(1)(C). The Complaint proposed that the Respondent pay an administrative penalty for its violations, pursuant to section 311(j) of the Act, 33 U.S.C. § 1321(j).

2. The Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint.

3. The Respondent waives its right to contest the allegations in the Complaint and to appeal any final order (Final Order) that an EPA Regional Judicial Officer may issue to approve this consent agreement (Agreement).

4. This Agreement, upon incorporation into a Final Order, is binding upon the EPA, the Respondent, and the Respondent's successors and assigns. Any change in ownership or corporate status of the Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter the Respondent's responsibilities under this Agreement.

5. The Respondent agrees to pay a civil penalty in the amount of eleven thousand dollars (\$11,000) in the manner described below:

- a. Payment shall be in a single payment of eleven thousand dollars (\$11,000), due no later than 30 calendar days from the date of the Final Order. If the due date for the payment falls on a weekend or federal holiday, then the due date is the next business day. The date the payment is made is considered to be the date processed by U.S. Bank, as described below. Payment must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.
- b. The payment shall be made by remitting a check or making an electronic payment, as described below. The check or other payment shall designate the name and docket number of this case, be in the amount stated in part "a," above, and be payable to "Oil Spill Liability Trust Fund-311." The payment shall be remitted as follows:

If remitted by regular U.S. mail:

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

If remitted by any overnight commercial carrier:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

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

If remitted through the Automated Clearing House (ACH) for receiving US currency:

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

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737

Contacts: John Schmid (202-874-7026) and REX (Remittance Express)
800-234-5681

If remitted on-line with a debit card, credit card, or bank account transfer:

No user name, password, or account number is necessary for this option. On-line payment can be accessed via WWW.PAY.GOV, entering 1.1 in the form search box on the left side of the screen to access the EPA's Miscellaneous Payment Form, opening the form, following the directions on the screen and, after selecting "submit data," entering the relevant debit card, credit card, or bank account information.

- c. At the time of payment, a copy of the check (or notification of other type of payment) shall also be sent to:

Christopher Ajayi, Enforcement Officer
Water Technical Enforcement Program (8ENF-UFO)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

and

Tina Artemis, Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

- d. If the payment is not received by the specified due date, interest accrues from the date of the Final Order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717 and will continue to accrue until payment in full is received (e.g., on the 1st late day, 30 days of interest will have accrued).

- e. A handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the date of the Final Order, and for each subsequent 30-day period that the debt, or any portion thereof, remains unpaid. In addition, a 6% per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date. Payments are first applied to outstanding handling charges, second to penalty assessments, third to accrued interest, and then to the outstanding principal amount.
- f. The Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

6. Nothing in this Agreement shall relieve the Respondent of the duty to comply with the Act and any regulation, order, or permit issued pursuant to the Act.

7. Any failure by the Respondent to comply with this Agreement shall constitute a breach of this Agreement and may result in referral of the matter to the United States Department of Justice for enforcement of this Agreement and such other relief as may be appropriate.

8. Nothing in this Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as any failure by the Respondent to comply with this Agreement.

9. The undersigned representative of the Respondent certifies that he is fully authorized to enter into and bind the Respondent to this Agreement.

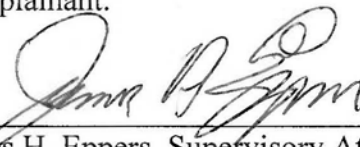
10. The parties agree to submit this Agreement to the appropriate EPA regional judicial officer, with a request that it be incorporated into a Final Order.

11. Each party shall bear its own costs and attorney's fees in connection with this matter.

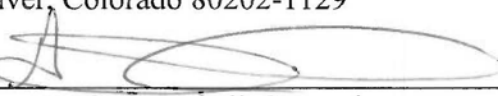
12. This Agreement, upon incorporation into a Final Order and full satisfaction by the parties, shall be a complete and full resolution of the Respondent's liability for federal civil penalties for the violations and facts alleged in the Complaint.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant.

Date: JAN 14 2015

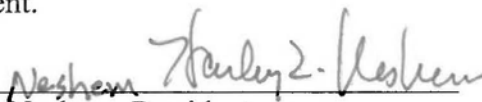
By: 
James H. Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance,
and Environmental Justice
U.S. EPA Region 8
1595 Wynkoop St.
Denver, Colorado 80202-1129

Date: 01/15/15

By: 
Gwenette C. Campbell, Supervisor
Water Technical Enforcement Program
Office of Enforcement, Compliance,
and Environmental Justice
U.S. EPA Region 8
1595 Wynkoop St.
Denver, Colorado 80202-1129

GRATECH COMPANY, LTD.,
Respondent.

Date: 12-30-2014

By: 
Harley E. Nesham, President
Gratech Company, Ltd.
8201 282nd Street NW
Berthold, North Dakota 58718

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **GRATECH COMPANY LTD.; DOCKET NO.: CWA-08-2014-0030** was filed with the Regional Hearing Clerk on January 20, 2015.

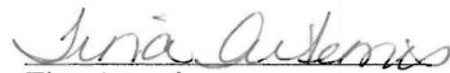
Further, the undersigned certifies that a true and correct copy of the documents were delivered to, Peggy Livingston, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were resent and placed in the United States mail certified/return receipt and emailed on January 20, 2015 to:

Harley Neshem, President
Gratech Company, Ltd.
8201 282nd Street NW
Berthold, ND 58718-9602
hneshem@gratechcompanyltd.com

And emailed to:

Kim White
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

January 20, 2015


Tina Artemis
Paralegal/Regional Hearing Clerk

