



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

MAR -5 2013

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

REPLY TO THE ATTENTION OF:

Mitchell J. Klein  
Polsinelli Shugart PC  
CityScape  
One E. Washington St., Ste. 1200  
Phoenix, AZ 85004

Re: Beelman Ready Mix, Inc., East St. Louis, Illinois, Consent Agreement and Final Order,  
Docket No. **EPCRA-05-2013-0010**

Dear Mr. Klein:

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 March 5, 2013.


Please pay the EPCRA civil penalty in the amount of \$7,500 in the manner prescribed in paragraphs 126 and 127, and reference your check with the docket number:

**EPCRA-05-2013-0010**

Your payments are due on April 4, 2013.

Please feel free to contact Ginger Jager at (312) 886-0767 if you have any questions regarding the enclosed documents. Please direct any legal questions to Monesh Chabria, Associate Regional Counsel, at (312) 886-6842. Thank you for your assistance in resolving this matter.

Sincerely,

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

Enclosure

cc: Kathy Allen, IL SERC (w/ enclosure)

RECEIVED  
MAR 05 2013

REGIONAL HEARING CLERK  
USEPA  
REGION 5

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of: ) Docket No. EPCRA-05-2013-0010  
)  
Beelman Ready Mix, Inc. )  
East St. Louis, Illinois ) Proceeding to Assess a Civil Penalty Under  
) Section 325 (c)(1) of the Emergency Planning  
Respondent. ) and Community Right-to-Know Act of 1986  
)  
)  
)  
)  
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\_\_\_\_\_ )

Consent Agreement and Final Order  
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 325(c)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045 (c)(1) and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. 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.

3. Respondent is Beelman Ready Mix, Inc., a company doing business in the State of Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and the terms of the CAFO.

#### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

#### **Statutory and Regulatory Background**

9. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370, require the owner or operator of a facility, which is required by the Occupational Safety and Health Act (OSHA) to prepare or have available a material safety data sheet (MSDS) for a hazardous chemical, to submit to the state emergency response commission (SERC), community coordinator for the local emergency planning committee (LEPC) and fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter, an emergency and hazardous chemical inventory form (Tier I or Tier II as described in 40 C.F.R. Part 370). The form must contain the information required by Section 312(d) of EPCRA, covering all hazardous chemicals present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000 pounds and all extremely hazardous chemicals present at the facility at any one time in amounts equal to or greater than 500 pounds or the threshold planning quantity designated by

U.S. EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

10. Section 312(a) of EPCRA, 42 U.S.C. §11022(a), assists state and local committees in planning for emergencies and makes information on chemical presence and hazards available to the public. A delay in reporting could result in harm to human health and the environment.

11. Under 29 C.F.R. § 1910.1200(b)(1), all employers are required to provide information to their employees about the hazardous chemicals to which they are exposed including, but not limited to, MSDS.

12. Under 29 C.F.R. § 1910.1200(d)(3), chemicals listed in 29 C.F.R. Part 1910, Subpart Z are hazardous.

13. According to 29 C.F.R. § 1910.1200(c), a “hazardous chemical” is defined as “any chemical which is a physical hazard or a health hazard.”

14. Section 325(c)(1) of EPCRA, 42 U.S.C. § (c)(1), authorizes U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation of EPCRA Section 312. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$37,500 per day of violation for violations that occurred after January 12, 2009.

#### **Factual Allegations and Alleged Violations**

15. Respondent is a “person” as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

16. Calcium chloride is a chemical which irritates eyes and skin on contact, lungs upon inhalation, and digestive tracts upon ingestion.

17. Calcium chloride is a “hazardous chemical” within the meaning of

Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

18. Calcium chloride has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.

19. Portland cement (CAS #65997-15-1) is listed as a toxic and hazardous substance under OSHA regulations at 29 C.F.R. Part 1910, Subpart Z, and 29 C.F.R. § 1910.1000, Table Z-1.

20. Portland cement (CAS #65997-15-1) is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

21. Portland cement (CAS #65997-15-1) has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.

22. Diesel fuel is a chemical which severely irritates skin on contact and mildly irritates eyes upon contact.

23. Diesel fuel is a chemical that is flammable.

24. Diesel fuel is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

25. Diesel fuel has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.

26. Fly ash is a chemical which irritates eyes and skin upon contact, and respiratory tracts upon inhalation. Chronic exposure to dust from fly ash and its component crystalline silica can cause inflammation of nasal tissue and cornea, allergic dermatitis, silicosis, and possibly cancer.

27. Fly ash is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

28. Fly ash has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.
29. Limestone (CAS #1317-65-3) is listed as a toxic and hazardous substance under OSHA regulations at 29 C.F.R. Part 1910, Subpart Z, and 29 C.F.R. § 1910.1000, Table Z-1.
30. Limestone (CAS #1317-65-3) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).
31. Limestone (CAS #1317-65-3) has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.
32. Crystalline silica (CAS #14808-60-7), also known as natural sand, is listed as a toxic and hazardous substance under OSHA regulations at 29 C.F.R. Part 1910, Subpart Z, and 29 C.F.R. § 1910.1000, Table Z-1.
33. Crystalline silica (CAS #14808-60-7) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).
34. Crystalline silica (CAS #14808-60-7) has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.
35. Propane (CAS #74-98-6) is listed as a toxic and hazardous substance under OSHA regulations at 29 C.F.R. Part 1910, Subpart Z, and 29 C.F.R. § 1910.1000, Table Z-1.
36. Propane (CAS #74-98-6) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).
37. Propane (CAS #74-98-6) has a minimum threshold level of ten thousand pounds, as provided in 40 C.F.R. Part 370.

**Breese Facility**

38. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 8200 Old Highway 50, Breese, Clinton County, Illinois (Breese Facility).

39. At all times relevant to this CAFO, Respondent was an employer at the Breese Facility.

40. Respondent's Breese Facility consists of 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.

41. Respondent's Breese Facility is a "facility" as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

42. During at least one period of time in calendar year 2009, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, propane and crystalline silica (natural sand) were present at the Breese Facility in an amount equal to or greater than the minimum threshold level.

43. At all times relevant to this CAFO, OSHA required Respondent to prepare, or have available, MSDSs for calcium chloride, Portland cement, diesel fuel, fly ash, limestone, propane and crystalline silica (natural sand).

**Mt. Vernon Facility**

44. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 13425 North Shiloh Road, Mt. Vernon, Jefferson County, Illinois (Mt. Vernon Facility).

45. At all times relevant to this CAFO, Respondent was an employer at the Mt.

Vernon Facility.

46. Respondent's Mt. Vernon Facility consists of 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.

47. Respondent's Mt. Vernon Facility is a "facility" as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

48. During at least one period of time in calendar year 2009, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand) were present at the Mt. Vernon Facility in an amount equal to or greater than the minimum threshold level.

49. At all times relevant to this CAFO, OSHA required Respondent to prepare, or have available at the Mt. Vernon Facility, MSDSs for calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand).

#### Nashville Facility

50. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 17588 Mockingbird Road, Nashville, Washington County, Illinois (Nashville Facility).

51. At all times relevant to this CAFO, Respondent was an employer at the Nashville Facility.

52. Respondent's Nashville Facility consists of 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.

53. Respondent's Nashville Facility is a "facility" as that term is defined under



Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

54. During at least one period of time in calendar year 2009, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand) were present at the Nashville in an amount equal to or greater than the minimum threshold level.

55. At all times relevant to this CAFO, OSHA required Respondent to prepare, or have available at the Nashville Facility, an MSDS for calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand).

**Pinckneyville Facility**

56. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 5780 State Route 154, Pinckneyville, Perry County, Illinois (Pinckneyville Facility).

57. At all times relevant to this CAFO, Respondent was an employer at the Pinckneyville Facility.

58. Respondent's Pinckneyville Facility consists of 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.

59. Respondent's Pinckneyville Facility is a "facility" as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

60. During at least one period of time in calendar year 2009, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand) were present at the Pinckneyville Facility in an amount equal to or greater than the minimum threshold level.

61. At all times relevant to this CAFO, OSHA required Respondent to prepare, or have available at the Pinckneyville Facility, MSDSs for calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand).

**Sandoval Facility**

62. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 100 Old Cemetery Road, Sandoval, Marion County, Illinois (Sandoval Facility).

63. At all times relevant to this CAFO, Respondent was an employer at the Sandoval Facility.

64. Respondent's Sandoval Facility consists of 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.

65. Respondent's Sandoval Facility is a "facility" as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

66. During at least one period of time in calendar year 2009, calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand) were present at the Sandoval Facility in an amount equal to or greater than the minimum threshold level.

67. At all times relevant to this CAFO, OSHA required Respondent to prepare, or have available at the Sandoval Facility, MSDSs for calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and crystalline silica (natural sand).

### Additional General Allegations

68. For each of the facilities referenced in this CAFO, Section 312 of EPCRA required Respondent to submit to the SERC, LEPC, and fire department with jurisdiction over the facility, a completed emergency and hazardous chemical inventory form including each hazardous chemical present at the facility on or before March 1, for the preceding calendar year.

69. At all times relevant to this CAFO, the Illinois Emergency Management Agency was the SERC for Illinois under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

70. At all times relevant to this CAFO, the Clinton County Local Emergency Planning Committee was the LEPC for Clinton County, Illinois under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

71. At all times relevant to this CAFO, the Jefferson County Local Emergency Planning Committee was the LEPC for Jefferson County, Illinois under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

72. At all times relevant to this CAFO, the Washington County Local Emergency Planning Committee was the LEPC for Washington County, Illinois under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

73. At all times relevant to this CAFO, the Perry County Local Emergency Planning Committee was the LEPC for Perry County, Illinois under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

74. At all times relevant to this CAFO, the Marion County Local Emergency Planning Committee was the LEPC for Marion County, Illinois under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

75. At all times relevant to this CAFO, the Breese Fire District was the fire department with jurisdiction over the Breese Facility.
76. At all times relevant to this CAFO, the Mt. Vernon Fire Department was the fire department with jurisdiction over the Mt. Vernon Facility.
77. At all times relevant to this CAFO, the Nashville Fire Department was the fire department with jurisdiction over the Nashville Facility.
78. At all times relevant to this CAFO, the Pinckneyville Fire Department was the fire department with jurisdiction over the Pinckneyville Facility.
79. At all times relevant to this CAFO, the Sandoval Fire Department was the fire department with jurisdiction over the Sandoval Facility.
80. Respondent submitted to the SERC an Emergency and Hazardous Chemical Inventory Form for the Breese Facility including calcium chloride, Portland cement, diesel fuel, fly ash, and propane on March 11, 2011, for calendar year 2009.
81. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Breese Facility including limestone and natural sand on August 19, 2011, for calendar year 2009.
82. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Breese Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand, by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).
83. Respondent submitted to the Clinton LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Breese Facility including calcium chloride,

Portland cement, diesel fuel, propane and fly ash on March 11, 2011 for calendar year 2009.

84. Respondent submitted to the Clinton LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Breese Facility including limestone and natural sand on August 19, 2011, for calendar year 2009.

85. Each day Respondent failed to submit to the Clinton County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Breese Facility including calcium chloride, Portland cement, diesel fuel, propane, fly ash, limestone, and natural sand, by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

86. Respondent submitted to the Breese Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Breese Facility including calcium chloride, Portland cement, diesel fuel, propane, and fly ash on March 11, 2011, for calendar year 2009.

87. Respondent submitted to the Breese Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Breese Facility, including limestone and natural sand on August 19, 2011, for calendar year 2009.

88. Each day Respondent failed to submit to the Breese Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Breese Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand, by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

89. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Mt. Vernon Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on March 15, 2011, for calendar year 2009.

90. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Mt. Vernon Facility including limestone and natural sand on August 19, 2011, for calendar year 2009.

91. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Mt. Vernon Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand, by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

92. Respondent submitted to the Jefferson County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Mt. Vernon Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on March 15, 2011, for calendar year 2009.

93. Respondent submitted to the Jefferson County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Mt. Vernon Facility including limestone and natural sand on August 19, 2011, for calendar year 2009.

94. Each day Respondent failed to submit to the Jefferson County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Mt. Vernon Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone and natural sand, by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

95. Respondent submitted to the Mt. Vernon Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Mt. Vernon Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on March 15, 2011, for calendar year 2009.

96. Respondent submitted to the Mt. Vernon Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Mt. Vernon Facility including limestone and natural sand on August 19, 2011, for calendar year 2009.

97. Each day Respondent failed to submit to the Mt. Vernon Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Mt. Vernon Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand, by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

98. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Nashville Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on March 15, 2011, for calendar year 2009.

99. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Nashville Facility including limestone and natural sand on August 19, 2011, for calendar year 2009.

100. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Nashville Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

101. Respondent submitted to the Washington County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Nashville Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on March 15, 2011, for calendar year 2009.

102. Respondent submitted to the Washington County LEPC a completed Emergency

and Hazardous Chemical Inventory Form for the Nashville Facility including limestone and natural sand on August 19, 2011, for calendar year 2009.

103. Each day Respondent failed to submit to the Washington County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Nashville Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

104. Respondent submitted to the Nashville Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Nashville Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on March 15, 2011, for calendar year 2009.

105. Respondent submitted to the Nashville Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Nashville Facility including limestone and natural sand on August 19, 2011, for calendar year 2009.

106. Each day Respondent failed to submit to the Nashville Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Nashville Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

107. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Pinckneyville Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on March 11, 2011, for calendar year 2009.

108. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Pinckneyville Facility including limestone and natural sand



on August 19, 2011, for calendar year 2009.

109. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Pinckneyville Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

110. Respondent submitted to the Perry County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Pinckneyville Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on March 11, 2011, for calendar year 2009.

111. Respondent submitted to the Perry County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Pinckneyville Facility including limestone and natural sand on August 19, 2011, for calendar year 2009.

112. Each day Respondent failed to submit to the Perry County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Pinckneyville Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

113. Respondent submitted to the Pinckneyville Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Pinckneyville Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on March 11, 2011, for calendar year 2009.

114. Respondent submitted to the Pinckneyville Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Pinckneyville Facility including

limestone and natural sand on August 19, 2011, for calendar year 2009.

115. Each day Respondent failed to submit to the Pinckneyville Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Pinckneyville Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

116. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Sandoval Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on March 11, 2011, for calendar year 2009.

117. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Sandoval Facility including limestone and natural sand on August 19, 2011, for calendar year 2009.

118. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form for the Sandoval Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone, and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

119. Respondent submitted to the Marion County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Sandoval Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on March 11, 2011, for calendar year 2009.

120. Respondent submitted to the Marion County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Sandoval Facility including limestone and natural sand on August 19, 2011, for calendar year 2009.

121. Each day Respondent failed to submit to the Marion County LEPC a completed Emergency and Hazardous Chemical Inventory Form for the Sandoval Facility including calcium chloride, Portland cement, diesel fuel, fly ash, limestone and natural sand by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

122. Respondent submitted to the Sandoval Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Sandoval Facility including calcium chloride, Portland cement, diesel fuel, and fly ash on March 11, 2011, for calendar year 2009.

123. Respondent submitted to the Sandoval Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Sandoval Facility including limestone and natural sand by August 19, 2011, for calendar year 2009.

124. Each day Respondent failed to submit to the Sandoval Fire Department a completed Emergency and Hazardous Chemical Inventory Form for the Sandoval Facility including calcium chloride, Portland cement, diesel fuel, and fly ash by March 1, 2010, for calendar year 2009 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

#### **Civil Penalty**

125. Complainant has determined that an appropriate civil penalty to settle this action is \$7,500. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violations and any other matters as justice may require. Complainant also considered 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 (EPCRA/CERCLA Enforcement Response Policy).

126. Within 30 days after the effective date of this CAFO, Respondent must pay a \$7,500 civil penalty for the EPCRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

The check must note the following: "In the Matter of: Beelman Ready Mix" and the docket number of this CAFO \_\_\_\_\_.

127. A transmittal letter, stating Respondent's name, the case name, Respondent's complete address and the case docket number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk, (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604-3511

Ginger Jager, (SC-5J)  
Chemical Emergency Preparedness  
and Prevention Section  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

Mony Chabria, (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

128. This civil penalty is not deductible for federal tax purposes.

129. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

130. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

#### **General Provisions**

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

132. 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.

133. Respondent certifies that it is complying with Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

134. This CAFO does not affect Respondent's responsibility to comply with EPCRA

and other applicable federal, state and local laws and regulations.

135. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

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


137. 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.

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

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


**Beelman Ready Mix, Inc., Respondent**

January 31, 2013  
Date


  
Name: Frank Beelman III  
Title: President  
Beelman Ready Mix, Inc.

**U.S. Environmental Protection Agency, Complainant**

2/21/13  
Date

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

2-22-13  
Date

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

In the Matter of: Beelman Ready Mix, Inc.  
Docket No. [ ] EPCRA-05-2013-0010

RECEIVED

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USEPA  
REGION 5

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.

2-25-13

Date



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



In the Matter of: **Beelman Ready Mix, Inc.**  
Docket No. [ ] **EPCRA-05-2013-0010**

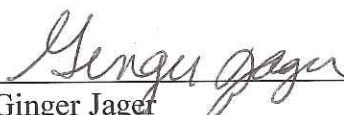
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**Certificate of Service**

I, Ginger Jager, 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, delivered a copy of the CAFO by intra-office mail to the Regional Judicial Officer, U.S. Environmental Protection Agency, Region 5, and mailed the 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:

Mitchell J. Klein  
Polsinelli Shugart PC  
CityScape  
One E. Washington St., Ste. 1200  
Phoenix, AZ 85004

on the 5<sup>th</sup> day of March, 2013

  
\_\_\_\_\_  
Ginger Jager  
U.S. Environmental Protection Agency  
Region 5