

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2011 FEB 17 PM 1:03

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CAA-08-2010-0017

IN THE MATTER OF:)

METAL MANAGEMENT WEST, INC.)

3260 West 500 South)

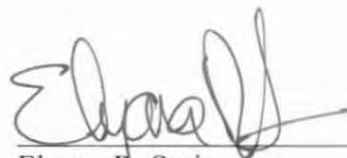
Salt Lake City, UT 84104)

RESPONDENT)

FINAL ORDER

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 17th DAY OF February, 2011.



Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2011 FEB 14 PM 1:35

Docket No. Docket No. CAA-08-2010-0017

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)
)
METAL MANAGEMENT WEST, INC.)
3260 WEST 500 SOUTH)
SALT LAKE CITY, UTAH 84104)
)
Respondent.)
_____)

CONSENT AGREEMENT

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, Metal Management West, Inc., by their undersigned representatives, hereby consent and agree as follows:

I. PRELIMINARY STATEMENT

1. This matter is subject to 40 C.F.R. part 22. This Consent Agreement (Agreement) contains all terms of the settlement agreed to by the parties.
2. The Complaint filed in this matter alleges the Respondent violated the Clean Air Act (the Act), 42 U.S.C. § 7401 *et. seq.*, by disposing refrigerant without prior recovery of refrigerant or without verifying prior recovery of refrigerant.
3. This Agreement applies to and is binding upon EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in the constitution of Respondent including, but not limited to, any transfer of real or personal property or other assets shall not alter Respondent's responsibilities under this Agreement.
4. Respondent waives its right to a hearing on any issue of law or fact set forth in the Complaint.
5. For purposes of this Agreement, Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint.
6. Respondent states its participation in this Consent Agreement is solely for the purpose of concluding this matter as provided herein and further, Respondent expressly states that its participation in this Consent Agreement is not a waiver of any defense or claim available to it in a legal proceeding, if any, against any party other than the Complainant. The Complainant approves as to the form of the preceding sentence.

II. TERMS OF SETTLEMENT

7. The Complaint filed previously in this matter proposed a higher penalty assessment than the one agreed to in this Agreement. For good cause shown, Complainant agrees to reduce the penalty proposed in the complaint to \$75,000.
8. Respondent has established compliance with the requirements that formed the basis of the allegations contained in the Complaint.
9. Respondent agrees to the issuance of a final order which incorporates the terms and conditions of this Agreement, and to pay the civil penalty as set forth in Paragraph 10 below.
10. Pursuant to section 113(d)(1)(B) of the Act, and based in part on the nature of the alleged violations and other relevant factors, EPA agrees that an appropriate civil penalty to settle this action is **SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00)**.
11. Respondent consents and agrees to pay a penalty of **SEVENTY FIVE THOUSAND dollars (\$75,000.00)**. **Respondent may pay the penalty in a single installment or in three equal installments of \$25,000.00 each.** Respondent agrees to make payment in the manner described below in this paragraph:
 - a. Within thirty (30) calendar days from the date on the Final Order issued in this matter, Respondent shall remit a cashier's or certified check in the amount of \$75,000 if paying in a single installment, or in the amount of \$25,000.00 for its First Installment Payment, if paying in installments. If paying in installments, the Second Installment Payment is due on or before one year after the date on the Final Order issued in this matter. The Third Installment Payment is due on or before two years after the date on the Final Order issued in this matter. Each installment payment shall be in the amount of \$25,000.00. At the end of two years after the date written on the Final Order in this matter, the Respondent shall have paid a penalty totaling \$75,000.00.
 - b. Payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, payable to "*Treasurer, United States of America*," (or be paid by one of the other methods listed below) and sent as follows:

Check Payments:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Wire Transfers:

Wire transfers should be directed to the Federal Reserve Bank of New York

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

Overnight Mail:

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

Contact: Natalie Pearson
314-418-4087

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact – Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22-checking
Environmental Protection Agency
Account 310006
CTX Format

On Line Payment:

There is now an On Line Payment Option, available through the Dept. of
Treasury.

This payment option can be accessed from the information below:
www.pay.gov
Enter sfo1.1 in the search field

Open form and complete required fields

A copy of the check, or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, shall be sent to both:

Ms. Cheryl Turcotte, 8ENF-AT
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

and

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

- c. In the event a payment is not received by the specified due date, interest accrues from 30 days prior to the applicable 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.
- d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the applicable due date, and each subsequent thirty-day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the applicable due date. Payments are first applied to handling charges, 6% penalty interest, and late interest; then any balance is applied to the outstanding principal amount.
- e. If Respondent elects to pay in installments, Respondent may nevertheless elect to pay the then-remaining amount due at any time prior to the applicable due date without penalty.
- f. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

III. ADDITIONAL GENERAL PROVISIONS

- 12. Nothing in this Agreement shall relieve Respondent of its duty to comply with the Act and its implementing regulations.
- 13. Failure by Respondent to comply with any term of this Agreement shall constitute a breach of this Agreement and may result in referral of the matter to the U. S. Department of Justice for enforcement of this agreement and such other relief as may be appropriate.

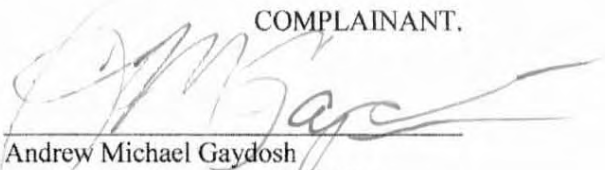
14. Nothing in this Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Agreement.
15. The person executing this Agreement for Respondent certifies that he or she is a representative of the Respondent, and further they certify that they are fully authorized to enter into the terms and conditions of this Agreement and to bind the Respondent to the terms and conditions of this Agreement.
16. The parties agree to submit this Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.
17. Each party shall bear its own costs and attorney fees in connection with this matter.
18. This Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint previously filed herein.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Office of Enforcement, Compliance, and
Environmental Justice

COMPLAINANT.

Date: 2-17-11

By:


Andrew Michael Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

METAL MANAGEMENT WEST, INC.

RESPONDENT.

Date: 2-6-11

By:



Printed Name: Steve Shintz

Title: President

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached, **CONSENT AGREEMENT** in the matter of **METAL MANAGEMENT WEST, INC.; DOCKET NO.: CAA-08-2010-0017** was filed with the Regional Hearing Clerk on February 14, 2011; the **FINAL ORDER** was filed on February 17, 2011.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to, Dana J. Stotsky, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on February 17, 2011 to:


Michael Ford, Esquire
Maribeth M. Klein, Esquire
Polsinelli Shugart
One East Washington Street, Suite 1200
Phoenix, AZ 85004

E-mailed to:

Honorable Susan L. Biro, Chief
Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

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

February 17, 2011


Tina Artemis
Paralegal/Regional Hearing Clerk

