



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

JUN 02 2009

REPLY TO THE ATTENTION OF:

SC-6J

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

John J. Conway  
Sullivan Hincks & Conway  
Suite 100  
120 West 22<sup>nd</sup> Street  
Oak Brook, IL 60523

Re: Pork King Packing, Inc., Marengo, Illinois  
Consent Agreement and Final Order – Docket No: EPCRA-05-2008-0024

Dear Mr. Conway:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the other original CAFO with the Regional Hearing Clerk on June 2, 2009.

Please pay the EPCRA civil penalty in the amount of \$ 56,000 in the manner prescribed in paragraphs 10 and 11, and reference your check with the number

BD 2750944E023 and docket number EPCRA-05-2008-0024.

Your payment is due on July 2, 2009.

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 Jeffery M. Trevino, Assistant Regional Counsel, at (312) 886-6729. Thank you for your assistance in resolving this matter.

Sincerely yours,

A handwritten signature in black ink that reads "Mark J. Horwitz".

Mark J. Horwitz, Chief  
Chemical Emergency Preparedness  
and Prevention Section

Enclosure

cc: Regional Hearing Clerk  
U.S. EPA Region 5

Jeffery M. Trevino  
Office of Regional Counsel  
U.S. EPA Region 5

Jon England, IL SERC (w/enclosure)

Judge Susan L. Biro (w/enclosure)  
Administrative Law Judge  
U.S. EPA, Headquarters

RECEIVED  
JUN 02 2009

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

REGIONAL HEARING CLERK  
USEPA  
REGION 5

In the Matter of: )  
)  
Pork King Packing, Inc., ) Docket No. EPCRA-05-2008-0024  
)  
Respondent )

CONSENT AGREEMENT AND FINAL ORDER

CONSENT AGREEMENT

1. Complainant, the Chief, Emergency Response Branch 2, Superfund Division, Region 5, United States Environmental Protection Agency (U.S. EPA), filed this civil administrative action pursuant to Sections 325( c)(1) and ( c)(2) of the Emergency Planning Community Right-To-Know Act of 1986 (EPCRA), 42 U.S.C. §§ 11045( c)(1) and ( c)(2).

2. On August 8, 2008, U.S. EPA filed the Complaint for this action against Respondent Pork King Packing, Inc., 8808 South Illinois Route 23, Marengo, Illinois. The Complaint alleged Respondent failed to: submit to the State Emergency Response Commission (SERC), Local Emergency Planning Committee (LEPC), and local fire department, by March 31, 2004, a Material Safety Data Sheet (MSDS) for anhydrous ammonia or sulfuric acid, or a list showing anhydrous ammonia or sulfuric acid in violation of Section 311 of EPCRA, 42 U.S.C. § 11021.; submit to the SERC, the LEPC, and the local fire department timely an Emergency and Hazardous Chemical Inventory Form including anhydrous ammonia and sulfuric acid for calendar years 2003 and 2004, in violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a); and, submit to the SERC, the LEPC, and the local fire department timely an Emergency and Hazardous Chemical Inventory

Form including anhydrous ammonia and sulfuric acid for calendar year 2007, in violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

3. On or about September 3, 2008, Respondent filed its Answer, which denied the alleged violations, and requested a hearing under Section 325(b)(1)(B) of EPCRA, 42 U.S.C. § 11045(b)(1)(B).

4. The parties agree the settlement of this civil administrative action without the adjudication of any issue of fact or law is in their interest and the public interest.

#### **Stipulations**

5. Respondent admits the jurisdictional allegations of the Complaint, pursuant to 40 C.F.R. § 22.18(b)(2), and admits or denies the remaining factual allegations of the Complaint as documented in its Answer.

6. Respondent admits the facts stipulated in this Consent Agreement, pursuant to 40 C.F.R. § 22.18(b)(2). Respondent makes no other admissions as a result of entering into this Consent Agreement and Final Order.

7. Respondent consents to the assessment of a civil penalty, pursuant to 40 C.F.R. § 22.18(b)(2).

8. Respondent waives any right to contest the allegations and its right to appeal the Final Order accompanying this Consent Agreement, pursuant to 40 C.F.R. § 22.18(b)(2).

#### **Civil Penalty**

9. U.S. EPA and Respondent agree to resolve this action for a total civil penalty of \$56,000.00.

10. Within thirty days of the effective date of this CAFO, Respondent must pay a \$56,000.00 civil penalty for its alleged violations of Sections 311 and 312(a) of EPCRA, 42 U.S.C. §§ 11021 and 11022(a). Respondent must pay the penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

The check must note the case title of this matter, the docket numbers of this CAFO, and the billing document number 2750944E023.

11. Respondent must include with each check a transmittal letter, stating the case title, Respondent's complete address, the case docket numbers, and the billing document number.

Respondent must send copies of its check and transmittal letter to:

Regional Hearing Clerk  
Region 5  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard (E-19J)  
Chicago, IL 60604-3511

Ginger Jager  
Chemical Emergency Preparedness and Prevention Section  
Region 5  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard (SC-6J)  
Chicago, IL 60604-3511

Jeffery M. Trevino  
Office of Regional Counsel  
Region 5  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard (C-14J)  
Chicago, IL 60604-3511

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

13. If Respondent does not pay the civil penalty timely 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's enforcement expenses for the collection action.

14. 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 \$15.00 handling charge each month that any portion of the penalty due is more than thirty (30) days past due. U.S. EPA will assess a six percent (6%) per year penalty on any principal amount not paid timely pursuant to this CAFO

15. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions unrelated to the allegations in the Complaint subsequently commenced pursuant to Federal laws and regulations administered by the EPA, and it is the responsibility of Respondent to comply with such laws and regulations. The EPA at present has no knowledge of any such potential or contemplated actions.

16. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

17. This CAFO does not affect Respondent's responsibility to comply with EPCRA and other applicable federal, state, and local laws, and regulations.

18. This CAFO is a "final order" for purposes of U.S. EPA's Enforcement Response Policy for Section 325 of EPCRA.

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

20. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

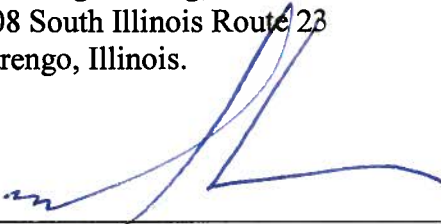
21. Each party agrees to bear its own costs and fees, including attorney's fees, for this action.

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

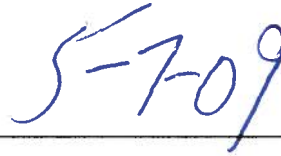
**In the Matter of: Pork King Packing, Inc., Marengo, Illinois.  
Docket No. EPCRA-05-2008-0024.  
Consent Agreement and Final Order.**

RESPONDENT

Pork King Packing, Inc.  
8808 South Illinois Route 23  
Marengo, Illinois.



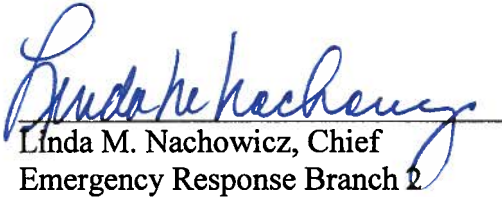
Thomas Miles, President



Date

COMPLAINANT

Superfund Division  
Region 5  
United States Environmental Protection Agency



Linda M. Nachowicz, Chief  
Emergency Response Branch 2  
Superfund Division



Date



Richard C. Karl, Director  
Superfund Division



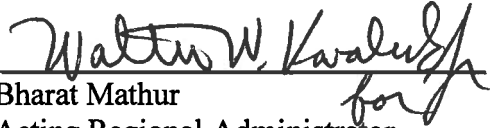
Date



**In the Matter of: Pork King Packing, Inc., Marengo, Illinois.  
Docket No. EPCRA-05-2008-0024.  
Consent Agreement and Final Order.**

**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. IT IS SO ORDERED.

  
Bharat Mathur  
Acting Regional Administrator  
Region 5  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago Illinois 60604-3590

5/28/09

RECEIVED  
JUN 02 2009

REGIONAL HEARING CLERK  
USEPA  
REGION 5

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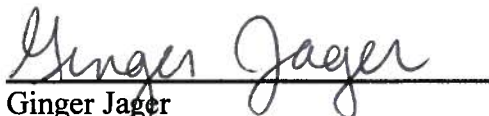
**CERTIFICATE OF SERVICE**

I, Ginger Jager, certify on the 2nd day of June, 2009, I hand delivered the original of the Consent Agreement and Final Order for this action to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to the Honorable Susan L. Biro, Chief Administrative Law Judge, and to Respondent by placing them in the custody of the United States Postal Service addressed as follows:

The Honorable Susan L. Biro  
Chief Administrative Law Judge  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Mail Code 1900L  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-2001

John J. Conway  
Sullivan Hincks & Conway  
Suite 100  
120 West 22<sup>nd</sup> Street  
Oak Brook, IL 60523

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USEPA  
REGION 5**



Ginger Jager  
Environmental Scientist  
Chemical Emergency Preparedness and Prevention Section  
Region 5  
Superfund Division  
U.S. Environmental Protection Agency

U.S. ENVIRONMENTAL  
PROTECTION AGENCY  
MAY 13 2009  
OFFICE OF REGIONAL  
COUNSEL