

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

_____) Docket No. EPCRA-02-2010-4004
In the Matter of:)
)
) CONSENT AGREEMENT AND
) FINAL ORDER
Pan American Grain Mfg Co., Inc.)
9 Claudia Street)
Guaynabo, Puerto Rico,)
)
) Under Section 325 of the Emergency
) Planning and Community Right to Know
) Act, 42 U.S.C. § 11045.
)
)
) Respondent.)
_____)

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2011 APR 12 A 9:25
REGIONAL HEARINGS
CLERK

I. PRELIMINARY STATEMENT

Complainant, the United States Environmental Protection Agency (“EPA”), Region 2, and Respondent, Pan American Grain Mfg Co., Inc., by their undersigned representatives, hereby consent and agree as follows:

1. EPA initiated this proceeding for the assessment of civil penalties pursuant to Section 325 of the Emergency Planning and Community Right to Know Act (“EPCRA”), 42 U.S.C. § 11045, by issuing an Administrative Complaint, Docket No. EPCRA-02-2010-4004 (hereinafter, “Complaint”), against Respondent on September 23, 2010.
1. Respondent is the owner and/or operator of a facility located at Calle Central Esq. San Pablo Bo. Sabana in Guaynabo, Puerto Rico (hereinafter, the “Facility”). The address for the Facility was mistakenly identified as 9 Claudia Street in Guaynabo, Puerto Rico in the Complaint, which is the location of Respondent’s headquarters.
2. The Complaint charged Respondent with the following counts:
 - a. Two counts for violations of Section 312 of EPCRA, 42 U.S.C. § 11022, for Respondent’s failure to submit completed emergency and hazardous chemical inventory forms (Tier I or Tier II form) for methyl bromide for the Facility to the Local Emergency Planning Committee (“LEPC”), the State Emergency Response Commission (“SERC”), and the fire department with jurisdiction over Respondent’s Facility for the years 2007 and 2008;
 - b. One count for violation of Section 312 of EPCRA, 42 U.S.C. § 11022, for Respondent’s failure to submit completed emergency and hazardous chemical

inventory forms (Tier I or Tier II form) for methyl bromide and diesel fuel for the Facility to the LEPC, the SERC, and/or the local fire department with jurisdiction over Respondent's Facility for the year 2009.

3. Respondent hereby certifies that it has fulfilled all reporting obligations for the violations cited in the Complaint.
4. Respondent admits the jurisdictional allegations set forth in the Complaint.
5. Pursuant to Section 325 of EPCRA, and taking into consideration the nature of the violations, and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is eleven thousand six hundred dollars (\$11,600).
6. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the assessment of the civil penalty cited in the foregoing paragraph.
7. Respondent agrees to pay a total of eleven thousand six hundred dollars (\$11,600) as a civil penalty for the counts alleged in the Complaint and set forth above, as described below.

Payment shall be made by sending a cashier's or certified check payable to the "Treasurer, United States of America." The check shall be identified with a notation of the name and docket number of this case (set forth in the caption on the first page of this document) and shall be sent to:

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

A copy of the check and any transmittal letter shall be sent to each of the following:

Lauren Charney
Assistant Regional Counsel
U.S. Environmental Protection Agency
290 Broadway, 17th Floor
New York, New York 10007

and

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region II
290 Broadway, 17th Floor
New York, New York 10007.

Respondent agrees to make such payments on or before thirty (30) calendar days after the date of signature of the Final Order at the end of this document (hereafter referred to as the "due date").

- a. Failure to pay the penalty in full according to the above provisions may result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for appropriate enforcement, including an action seeking collection of the amount set forth above, plus allowable interest and such other penalties as provided for in this Consent Agreement.
 - b. Further, if payment is not received on or before the due date, Respondent agrees to pay interest, at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, Respondent agrees to pay a late payment handling charge of \$15 for each thirty (30) day period (or any portion thereof) following the due date in which the balance remains unpaid.
 - c. Respondent also agrees to pay a 6% per annum penalty which will also be applied on any principal amount not paid within ninety (90) days of the due date.
8. The penalties specified in Paragraph 8, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of State or federal taxes.

II. GENERAL PROVISIONS

9. Respondent neither admits nor denies the factual allegations contained in the Complaint. Respondent waives any right to contest the allegations contained in the Complaint and/or to appeal the Final Order accompanying this Consent Agreement.
10. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions between EPA staff and the Regional Judicial Officer of EPA Region 2, and further waives the right to be served with and to reply to any memorandum or communication addressed by EPA staff to the Regional Judicial Officer where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.
11. This Consent Agreement and Final Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, State, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, State or local permit. Nothing in this Consent Agreement and Final Order is intended nor shall be construed to operate in any way to resolve any criminal liability of Respondent. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered

by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

12. Each party to this action shall bear its own costs and attorney fees.
13. Full and complete satisfaction of the requirements of this Consent Agreement and Final Order shall resolve Respondent's liability for federal civil penalties for the violations and facts alleged in the Complaint.
14. The person signing below on behalf of Respondent hereby certifies that he or she is fully and legally authorized by Respondent to execute this Consent Agreement on behalf of Respondent and to bind Respondent to this Consent Agreement in accordance with all of the terms and conditions contained herein.
15. The Director of the Emergency and Remedial Response Division of EPA Region 2 has been delegated the authority to sign the Consent Agreement in this action, and the Regional Judicial Officer of EPA Region 2 has been delegated the authority to sign the Final Order in this action.
16. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by any EPA employee, in lieu of service made by the EPA Region 2 Regional Hearing Clerk.

Consent Agreement In the Matter of Pan American Grain Manufacturing Co., Inc.
Docket No. EPCRA-02-2010-4004

For Respondent
Pan American Grain Manufacturing, Co., Inc.:

SRolon
Signature

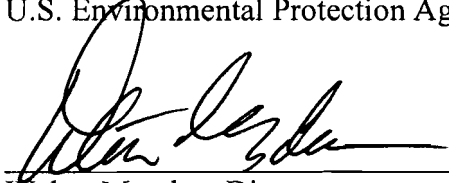
Date: 3/30/11

Sheila Rolón Lugo
Name (Printed or Typed)

Compliance Officer
Title (Printed or Typed)

Consent Agreement In the Matter of Pan American Grain Manufacturing Co., Inc.
Docket No. EPCRA-02-2010-4004

For Complainant
U.S. Environmental Protection Agency:



Walter Mugdan, Director
Emergency and Remedial Response Division, Region 2

Date: 4/7/11

In the Matter of Pan American Grain Manufacturing Co., Inc.
Docket No. EPCRA-02-2010-4004

FINAL ORDER

The Consent Agreement In the Matter of Pan American Grain Manufacturing Co., Inc. Docket No. EPCRA-02-2010-4004, signed on behalf of Respondent Pan American Grain Manufacturing Co., Inc. and the Environmental Protection Agency, is hereby approved, incorporated herein, and issued by U.S. EPA as a Final Order. The effective date of this Final Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA, Region 2, New York, New York.

April 7, 2011
Date

Helen Ferrara
Helen Ferrara
Regional Judicial Officer
U.S. EPA, Region 2

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

In the Matter of

**Pan American Grain Manufacturing Co.,
Inc.,**

Respondent

Docket No. EPCRA-02-2010-4004

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing **Consent Agreement and Final Order** dated April 7, 2011, and bearing the above-referenced docket number, in the following manner to the respective addressees below:

original and copy by inter-office mail to:

Karen Maples
Regional Hearing Clerk, Region II
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, NY 10007-1866;

copy by email and regular mail to:

Gretchen Mendez-Vilella
Goldman Antonetti & Córdova, P.S.C.
American International Plaza, Suite 1400
250 Muñoz Rivera Avenue
San Juan, Puerto Rico 00918
gmendez@gaclaw.com

copy by email and overnight mail, to:

Administrative Law Judge:
The Honorable Susan L. Biro
Chief Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
401 M Street, S.W.
Washington, D.C. 20460
oaljfilng@epa.gov

4-8-11

Date

Rayetta Martin

Name