

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

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EPA REGION III

IN THE MATTER OF:)	
)	
Galliker Dairy Company)	EPA Docket Nos. CAA-03-2016-0128
143 Donald Lane)	
Johnstown, Pennsylvania 15907,)	
)	
Respondent.)	
)	Proceedings Pursuant to Sections 112(r) and
)	113 of the Clean Air Act, 42 U.S.C.
143 Donald Lane)	§§ 7412, 7413, and 40 C.F.R. § 22.13(b)
Johnstown, Pennsylvania 15907,)	and 22.18(b)
)	
Facility.)	

CONSENT AGREEMENT

STATUTORY AUTHORITY

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 113(d) of the Clean Air Act ("CAA"), as amended, 42 U.S.C. § 7413(d), and under the authority provided by the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits" ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 ("Part 22"). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region III, who has in turn delegated them to the Director, Hazardous Site Cleanup Division, EPA Region III ("Complainant").

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as "CA/FO") as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b) and 22.18(b)(2), and having consented to the entry of this CA/FO, agree to comply with the terms of this CA/FO.

JURISDICTION

1. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).
2. The Regional Judicial Officer has the authority to approve this settlement and conclude this proceeding pursuant to 40 C.F.R. § 22.4(b) and 22.18(b)(3).
3. For the purpose of this proceeding, Galliker Dairy Company (“Respondent”) admits to the jurisdictional allegations in this Consent Agreement and agrees not to contest EPA’s jurisdiction with respect to the execution or enforcement of this Consent Agreement.
4. With the exception of Paragraph 3, above, for the purpose of this proceeding, Respondent neither admits nor denies the Findings of Fact and Conclusions of Law set forth in this Consent Agreement, but expressly waives its right to contest said allegations.

FINDINGS OF FACT

5. Galliker Dairy Company is a corporation incorporated in the Commonwealth of Pennsylvania in 1921, with its principal place of business located at 143 Donald Lane in Johnstown, Pennsylvania.
6. Respondent has owned and operated the fluid milk manufacturing facility located at 143 Donald Lane in Johnstown, Pennsylvania (the “Facility”) since 1973.
7. Respondent uses anhydrous ammonia at the Facility for refrigeration of raw milk, juice concentrate, and product storage.

CAA LEGISLATIVE AND REGULATORY HISTORY AND DEFINITIONS

8. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r).
9. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), requires the Administrator to set threshold quantities for listed regulated substances. The list of regulated substances and threshold levels can be found in 40 C.F.R. § 68.130.
10. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), the owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to identify hazards which may result from accidental releases of such substances

using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur. Section 112(r)(1) is hereinafter referred to herein as the "General Duty Clause."

11. The General Duty Clause applies to any stationary source producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the CAA, or other extremely hazardous substances. Extremely hazardous substances include, but are not limited to, regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), at 40 C.F.R. § 68.130, and chemicals on the list of extremely hazardous substances published pursuant to the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11011 *et seq.*, at 40 C.F.R. Part 355, Appendices A and B.

12. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines "stationary source," as "any buildings, structures, equipment, installations, or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur."

13. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines "person" as including an individual, corporation, partnership, association, State, municipality, political subdivision of a State and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

14. As used herein, the term "day" shall mean calendar day.

15. All terms not defined herein shall have the meanings set forth in the CAA.

16. Section 113(d)(1)(B), 42 U.S.C. § 7413(d)(1)(B), as amended by the Debt Collection Improvement Act of 1996, authorizes EPA to commence an administrative action to assess civil penalties of not more than \$37,500 per day for each violation of Section 112(r) of the CAA that occurs after January 12, 2009.

FINDINGS OF FACT RELATED TO VIOLATION OF SECTION 112(r)(1) OF THE CLEAN AIR ACT

17. The factual allegations contained in Paragraphs 5 through 16 of this CA/FO are incorporated by reference herein as though fully set forth at length.

18. On July 29, 2015, EPA conducted an inspection of the Facility pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, to determine Respondent's compliance with Section 112(r)(1) and (7) of the CAA, 42 U.S.C. § 7412(r)(1) and (7), and the Chemical Accident Prevention Provisions at 40 C.F.R. Part 68.

19. At the time of the inspection, EPA inspectors observed that Respondent stored anhydrous ammonia in three separate processes: (a) an ammonia refrigeration system and co-

located storage tank with a combined capacity of approximately 12,000 pounds; (b) a tri-tray freezing ammonia system with a capacity of 4,420 pounds; and (c) a cooler area ammonia system with a capacity of 4,407 pounds.

20. In January 2016, Respondent removed from the Facility the co-located storage tank listed in Paragraph 19(a), above, which had an ammonia storage capacity of approximately 2,250 pounds; as a result, the maximum capacity for anhydrous ammonia in any one process at the Facility is approximately 9,750 pounds.

21. The substance anhydrous ammonia (Chemical Abstract Service No. 7664-41-7), is listed on the List of Regulated Flammable Substances, at 40 C.F.R. § 68.130, Table 1, as a toxic substance.

22. Applicable industry codes relevant to the safe design of ammonia refrigeration systems include the following:

- a. American National Standards Institute ("ANSI")/American Society of Heating, Refrigerating and Air-Conditioning Engineers ("ASHRAE") Standard 15-2013: *Safety Standard for Refrigeration Systems* ("ANSI/ASHRAE Standard 15");
- b. International Institute of Ammonia Refrigeration (IIAR) Bulletin 109, *Minimum Safety Criteria for a Safe Ammonia Refrigeration System*, (1997) ("IIAR 109"); and
- c. International Institute of Ammonia Refrigeration (IIAR) Bulletin 110, *Start-up, Inspection and Maintenance of Ammonia Mechanical Refrigeration System*, (1993) ("IIAR 110").

23. During the inspection, EPA inspectors identified inconsistencies between the conditions at the Facility and the applicable industry standards in the following areas: (a) alarms; (b) signage; (c) self-contained breathing apparatuses; (d) protection for evaporators; (e) training; and (f) inspections and maintenance, as set forth below.

Alarms.

24. Section 8.11.2.1 of ANSI/ASHRAE Standard 15 states:

Each refrigerating machinery room shall contain a detector, located in an area where refrigerant from a leak will concentrate, that actuates an alarm and mechanical ventilation in accordance with Section 8.11.4 at a value not greater than the corresponding [threshold limit value time-weighted average ("TLV-TWA")] (or toxicity measure consistent therewith). The alarm shall announce visual and audible alarms inside the refrigerating machinery room and outside each entrance to the refrigerating machinery room. The alarms required in this section shall be of manual reset type with the reset located inside the refrigerating machinery room. Alarms set at other levels (such as IDLH) and automatic reset alarms are permitted in

addition to those required by this section. The meaning of each alarm shall be clearly marked by signage near the annunciators.

25. During the inspection, EPA inspectors determined that Respondent's ammonia detection alarm system has three levels: Level 1 – advisory alarm that activates visual alarm at alarm control box; Level 2 – activated visual and audible alarm that alerts alarm company who calls facility contact to follow-up; Level 3 – emergency alarm that activates visual and audible alarms that evacuate the building, shut off all system compressors, turn on ventilation system, and alert alarm company who calls 911 to dispatch emergency personnel. All three alarm set points were set well above TLV-TWA for ammonia, which is 25 ppm. Level 1 alarm set points ranged from 150-500 ppm. Level 2 alarm set points ranged from 400-700 ppm. All Level 3 alarm set points were 850 ppm. Process safety information provided by the Facility at the time of the inspection indicates that even at the lower Level 2 alarm level, 400 ppm, which is the first level at which evacuation would occur, unprotected workers would experience major irritation of the throat. The level at which ammonia is immediately dangerous to life or health (“IDLH”) is 300 ppm. Thus, EPA inspectors determined that the alarms were not set at a value less than or equal to the corresponding TLV-TWA, and they were set at levels that would pose a risk to unprotected workers. In addition, EPA inspectors determined that the alarms did not announce visual and audible alarms inside the refrigerating machinery room and outside each entrance to the refrigeration machinery room.

Signage.

26. Section 11.7 of ANSI/ASHRAE Standard 15 states: “When a refrigerated machinery room is used, the emergency procedures shall be posted outside the room, immediately adjacent to each door. The emergency procedures shall forbid entry into the refrigerating machinery room when the refrigerant alarm required by Section 8.11.2.1 has been activated except by persons provided with the appropriate respiratory and other protective equipment and trained in accordance with jurisdictional requirements.”

27. EPA inspectors observed that Respondent did not have emergency procedures posted immediately adjacent to each door entering the refrigerating machinery room.

Missing Self-Contained Breathing Apparatuses.

28. Section 4.10.11 of IIAR 109 states: “Every machinery room shall have a self-contained breathing apparatus located outside of, but close to, the exit door. A second, backup, self-contained breathing apparatus shall also be provided...”

29. EPA inspectors observed that Respondent provided only an air purifying respirator with PH/AM/CL/P100 cartridges inside the door of the refrigerated machinery room and self-contained breathing apparatus (“SCBAs”) in an alternate location on the other side of the Facility.

Protection for Evaporators.

30. Section 4.4.2 of IIAR 109 states: "Evaporators should be installed in locations where they are not exposed to possible physical damage through traffic hazards, for example: forklifts."

31. EPA inspectors observed that Respondent did not provide protection around evaporators in the cold storage areas, where forklifts could pose a threat of physical damage.

Training.

32. Section 5.2.3 of IIAR Bulletin 110 states:

The Employer shall verify that training has been completed for the following items and personnel: a. Employees involved in operating the process shall be trained in an overview of the process and the operating procedures. The training shall include safety and health hazards, emergency operations and safe work practices. This training shall be documented and it shall be verified that employees understood the training. b. Employees involved in the ongoing integrity of the equipment shall be trained in an overview of the process and its hazards. The training shall include the procedures applicable to the employees' tasks. c. Employees involved in the emergency plan or the emergency response plan shall be properly trained to fulfill their duties in this regard.

33. EPA inspectors observed that Respondent did not provide protection consistent with industry standards regarding employee training for process activities and maintenance. EPA inspectors determined that Respondent did not have documentation of process-related trainings. Respondent provided all of its training documentation to EPA inspectors, but the training documentation was limited to health and safety related trainings, including "Emergency Action Plan/Fire Extinguisher" and "SCBA Yearly Recertification." Respondent had created a new training plan for process training the day before the inspection, but had not yet implemented the training.

Inspections and maintenance.

34. Section 6.0 of IIAR Bulletin 110 states:

This section contains recommendations on the type and frequency of inspection and maintenance required to ensure the safety of refrigerating systems. Subsections 6.3 to 6.7 cover the major groups of equipment likely to be incorporated in systems and within those subsections are details of routine inspection (and maintenance where applicable) to be carried out with the system in normal use and more detailed inspection and maintenance to be undertaken periodically. Hazards particular to the

equipment and requirements in relation to protection devices are also included in the appropriate subsection

35. EPA inspectors observed that Respondent did not provide protection consistent with industry standards regarding the type and frequency of process inspection and maintenance. Upon request by EPA inspectors for documentation of process inspections and maintenance, Respondent did not provide any documentation to EPA of process maintenance, process equipment inspection/testing, or calibration/replacement of ammonia sensors according to manufacturer's instructions. EPA inspectors determined that Respondent had developed a mechanical integrity plan in October 2014, but had not yet implemented the plan.

36. Based on information provided by Respondent to EPA during and after the inspection, EPA notified Respondent by letter dated April 11, 2016, that Respondent had not ensured that the process was designed in compliance with industry standards.

37. Based on information provided by Respondent to EPA on April 20, 2016, Respondent has, since the inspection, made the following improvements to the design and maintenance of the anhydrous ammonia system at the Facility:

- a. *Alarms.* Respondent reset its alarm settings to a value less than or equal to the corresponding TLV-TWA, and installed horn/strobes for audio and visual alarms.
- b. *Signage.* Respondent installed emergency procedure signs on the doors entering the machinery room.
- c. *SCBAs.* Respondent relocated SCBAs to a cabinet outside the machinery room.
- d. *Protection for Evaporators.* Respondent installed protection around the evaporators in the cold storage area to protect from forklift damage.
- e. *Training.* Respondent has trained all of its maintenance staff in storage and handling of anhydrous ammonia and process safety management. In addition, Respondent initiated a process whereby all maintenance personnel attend a course at the Industrial Refrigeration Technical College.
- f. *Inspections and Maintenance.* Respondent retained a contractor who conducted a mechanical integrity inspection of the Facility during the week of March 14, 2016.

38. From the time of the inspection on July 16, 2015 until the work described in the preceding Paragraph was completed on April 20, 2016, EPA determined that Respondent had failed to design and maintain a safe facility taking such steps as are necessary to prevent releases, because Respondent had failed to provide safety protection consistent with that provided by applicable industry codes and standards.

**CONCLUSIONS OF LAW RELATED TO THE
ALLEGED VIOLATION OF SECTION 112(r)(1) OF THE CLEAN AIR ACT**

39. Respondent is a “person” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

40. At all times relevant to this CA/FO, Respondent has been an owner of the Facility.

41. The Facility is a “stationary source” pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

42. The anhydrous ammonia at the Facility is an “extremely hazardous substance” for purposes of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), because it is listed pursuant to Section 112(r)(3) of the CAA, at 40 C.F.R. § 68.130, Table 3, as regulated toxic substance.

43. Until Respondent completed the work described in Paragraph 37, above, Respondent was in violation of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

44. Complainant further alleges that Respondent is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

SETTLEMENT

45. In accordance with 40 C.F.R. § 22.18(c), and in full and final settlement and resolution of all allegations referenced in the foregoing Findings of Fact and Conclusions of law, and in full satisfaction of all civil penalty claims pursuant thereto, for the purpose of this proceeding, the Respondent consents to the assessment of a civil penalty for the violation of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), in the amount of **\$35,991**.

PAYMENT TERMS

46. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent agrees to:

- a. Within thirty (30) days of the Effective Date of this CA/FO (the “Final Due Date”), pay the civil penalty of \$35,991, referencing “EPA Docket No. CAA-03-2016-0128” and using one of the methods identified in Paragraph 47.a-d, below.
- b. Additional payment guidance is available at:
<http://www2.epa.gov/financial/additional-instructions-making-payments-epa>
- c. Within 24 hours of payment of the civil penalty, Respondent shall send proof of payment to:

Cynthia T. Weiss
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III
1650 Arch Street (3RC42)
Philadelphia, PA 19103-2029

and

Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III
1650 Arch Street (3RC00)
Philadelphia, PA 19103-2029

The term "proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with "EPA Docket No. CAA-03-2016-0128."

47. Payment of the civil penalty shall be made using one of the following methods:

a. *Check.*

- (i) All checks shall be made payable to United States Treasury;
- (ii) All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
Contact: Heather Russell, 513-487-2044

- (iii) All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GI
St. Louis, MO 63101
Contact: 314-418-1028

- (iv) All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
 US EPA, MS-NWD
 26 M.L. King Drive
 Cincinnati, OH 45268-0001

- b. *Electronic Wire Transfer.* All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
 ABA = 021030004
 Account No. = 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

- c. *ACH.* All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
 ABA = 051036706
 Account No.: 310006, Environmental Protection Agency
 CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury Lisby Facility:
 5700 Rivertech Court
 Riverdale, MD 20737
 Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

- d. *On-Line Payment Option.*

WWW.PAY.GOV/PAYGOV
 Enter sfo 1.1 in the search field. Open and complete the form.

48. The civil penalty stated herein is based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and is consistent with 40 C.F.R. Part 19 and the *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7) and 40 C.F.R. Part 68* (June

2012).

49. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the civil penalty by the Final Due Date shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

50. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is mailed or hand-delivered to Respondent. However, EPA will waive interest on any amount of the civil penalty that is paid by the Final Due Date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

51. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the Final Due Date and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

52. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

GENERAL PROVISIONS

53. For the purpose of this proceeding, Respondent expressly waives its right to a hearing and to appeal the Final Order under Section 113(d)(2) of the CAA, 42 U.S.C. § 7413(d)(2).

54. The provisions of the CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

55. This CA/FO resolves only those civil claims which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or

the environment. Nothing in this CA/FO shall be construed to limit the United States' authority to pursue criminal sanctions.

56. By signing this Consent Agreement, the parties agree that each party's obligations under this Consent Agreement and accompanying Final Order constitute sufficient consideration for the other party's obligations.

57. Penalties paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.

58. Each party to this action shall bear its own costs and attorney's fees.

59. This Consent Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

60. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the CAA, and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

61. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment, nor, in such case, shall this Consent Agreement be construed so as to limit any defense that Respondent may have under the CAA or otherwise.

FOR RESPONDENT GALLIKER DAIRY COMPANY;



Evan Fineman
Senior Vice President, Chief Operating Officer
and Chief Financial Officer

5/10/2016

Date

FOR COMPLAINANT:



Dominique Lueckenhoff, Acting Director
Hazardous Site Cleanup Division
U.S. Environmental Protection Agency, Region 3



Date

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

IN THE MATTER OF:

Galliker Dairy Company
143 Donald Lane
Johnstown, Pennsylvania 15907,

Respondent.

143 Donald Lane
Johnstown, Pennsylvania 15907,

Facility.

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) EPA Docket Nos. CAA-03-2016-0128
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) Proceedings Pursuant to Sections 112(r) and
) 113 of the Clean Air Act, 42 U.S.C.
) §§ 7412, 7413, and 40 C.F.R. § 22.13(b)
) and 22.18(b)
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FINAL ORDER

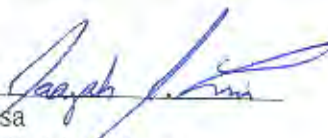
Complainant, the Director of the Hazardous Site Cleanup Division, U.S. Environmental Protection Agency, Region III, and Respondent, Galliker Dairy Company, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific references to Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to herein is consistent with 40 C.F.R. Part 19, and is based upon consideration of, *inter alia*, EPA's *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68* (June 2012), and the statutory factors set forth in Section 113(e) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(e).

NOW, THEREFORE, PURSUANT TO Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **THIRTY-FIVE THOUSAND, NINE HUNDRED AND NINETY-ONE DOLLARS (\$35,991)**, plus any applicable interest, and comply with the terms and conditions of the Consent Agreement.

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: May 18, 2016



Joseph J. Lisa
Regional Judicial Officer
U.S. EPA, Region III

