

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII

**901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101**

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

In the Matter of)
)
Gelita U.S.A., Inc.) **Docket No. EPCRA-07-2006-0257**
Sergeant Bluff, Iowa 51054)
)
Respondent.)

CONSENT AGREEMENT AND FINAL ORDER

This proceeding for the assessment of civil penalties was initiated on or about August 25, 2006, pursuant to Section 325 of the Emergency Planning and Community Right to Know Act (EPCRA), 42 U.S.C. § 11045, when the United States Environmental Protection Agency (Complainant or EPA) issued to Gelita U.S.A., Inc., Sergeant Bluff, Iowa (Respondent) a Complaint and Notice of Opportunity for Hearing.

The Complaint charged Respondent with violations of Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated there under and codified at 40 C.F.R. Part 372.

The Complaint proposed a penalty of Forty Thousand Two Hundred Dollars (\$40,200) for these violations.

CONSENT AGREEMENT

1. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in the Complaint. Respondent neither admits nor denies the factual allegations set forth in the Complaint.
2. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth in the Complaint.

3. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

4. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of Respondent's knowledge, Respondent's Sergeant Bluff, Iowa facility is presently in compliance with all requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, and all implementing regulations, 40 C.F.R. Part 372.

5. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty in the amount of Thirty Four Thousand One Hundred Seventy Dollars (\$34,170) to be paid within thirty (30) days of the effective date of the Final Order. Payment of the civil penalty shall resolve all civil and administrative claims of the EPA alleged in this Consent Agreement and Final Order.

6. The effect of settlement described in paragraph 5 above is conditioned upon the accuracy of the Respondent's representations to EPA, as memorialized in paragraph 4 above.

7. Respondent understands that the failure to pay any portion of the civil penalty assessed herein in accordance with the provisions of this Order may result in commencement of a civil action in Federal District Court to recover the total penalty, together with interest thereon at the applicable statutory rate.

8. The undersigned representative of Respondent certifies he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

9. The settlement pursuant to this Consent Agreement shall resolve Respondent's liability for Federal civil penalties for the violations and facts alleged in the Complaint.

FINAL ORDER

Pursuant to the provisions of EPCRA, 42 U.S.C. § 11001, and based upon the information set forth in this Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a civil penalty of Thirty Four Thousand One Hundred Seventy Dollars (\$34,170). Payment will be due on or before thirty days following the execution of this Consent Agreement and Final Order. Payment by Respondent shall identify the Respondent by name and docket number and shall be made by certified or cashier's check payable to the United States Treasury and remitted to:

Mellon Bank
EPA - Region 7
Regional Hearing Clerk
P.O. Box 371099M
Pittsburgh, PA 15251

2. A copy of the check shall be sent to:

Regional Hearing Clerk
United States Environmental Protection Agency - Region VII
901 N. Fifth Street
Kansas City, Kansas 66101; and

Kelley Hickman
Assistant Regional Counsel
United States Environmental Protection Agency - Region VII
901 N. Fifth Street
Kansas City, Kansas 66101

3. The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.

4. This executed Consent Agreement and Final Order shall be returned to the Regional Hearing Clerk, U.S. Environmental Protection Agency, 901 North 5th Street, Kansas City, Kansas 66101.

COMPLAINANT:
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By Kelley Hickman
Kelley Hickman
Assistant Regional Counsel

Date 11/28/06

RESPONDENT:
GELITA U.S.A., INCORPORATED
SERGEANT BLUFF, IOWA

By Mark A. Skubnik

Title EHS MANAGER

Date 11/22/06

IT IS SO ORDERED. This Final Order shall become effective immediately.

Robert Patrick
Robert Patrick
Regional Judicial Officer

Date December 1, 2006

IN THE MATTER OF Gelita U.S.A., Inc., Respondent
Docket No. EPCRA-07-2006-0257

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Kelley Hickman
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Karen L. Prena
Mayer Brown Rowe & Maw LLP
71 South Wacker Drive
Chicago, Illinois 60606-2637

Dated: 12/1/06



Kathy Robinson
Hearing Clerk, Region 7