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EPA -- REGION 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF: )  
 )  
FIRESTONE PACIFIC FOODS, INC., ) Docket No. EPCRA-10-2007-0204  
 )  
Vancouver, Washington ) JOINT SET OF STIPULATED  
 ) FACTS AND EXHIBITS  
Respondent. )  
\_\_\_\_\_ )

The parties submit the following stipulated facts and exhibits.

STIPULATED FACTS

1. Since at least 2000, Respondent has owned and operated a facility located at 4211 NW Fruit Valley Road, Vancouver, Washington (facility).
2. During some period of time in each calendar year 2001-2004, ammonia was present at the facility.
3. During calendar years 2001-2005, the Vancouver Fire Department was the fire department with jurisdiction over the facility.
4. Respondent did not submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including ammonia, for each calendar year 2001 - 2004.
5. Respondent did not submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including ammonia for each calendar year 2001-2004.

COMPLAINANT'S  
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6. Respondent did not submit to the Vancouver Fire Department a completed Emergency and Hazardous Chemical Inventory Form including ammonia for each calendar year 2001-2004.

7. Some time in calendar year 2005, ammonia was present at the facility in an amount of 1,820 pounds.

8. At least since January 1, 2000, there has been no known release of ammonia at Respondent's facility.

9. Respondent's Exhibit 1 was sent by Stan Firestone to Robert Hartman on or about January 12, 2007, and was received by Mr. Hartman shortly thereafter in the ordinary course.

#### **STIPULATED EXHIBITS**

The parties stipulate to the admissibility and entry of each of the following exhibits submitted with the initial prehearing exchanges, rebuttal prehearing exchange, and Respondent's amended prehearing exchange. By stipulating to the entry of the exhibits, the parties stipulate to their authenticity but do not stipulate to the veracity of the content of the exhibits.

Complainant's Ex. 1: Material Safety Data Sheet, Ammonia

Complainant's Ex. 2: Washington State Tier II Emergency and Hazardous Chemical Inventory Form, (and accompanying instructions)

Complainant's Ex. 3: EPA Region 10 Investigation Report for Firestone Pacific Foods, Inc., Facility, Vancouver, Washington, dated October 18, 2006

Complainant's Ex. 4: Log of Photographs included in the EPA Region 10 Investigation Report for Firestone Pacific Foods, Inc.

Complainant's Ex. 5: Enforcement Response Policy for Sections 301, 311 and 312 of the Emergency Planning and Community Right-to-Know

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Act and Section 103 of the Comprehensive Environmental  
Response, Compensation, and Liability Act, dated September 30, 1999

- Complainant's Ex. 6: EPA Memorandum Entitled "Penalty Policy Supplements Pursuant to the  
2004 Civil Monetary Penalty Inflation Adjustment Rule, dated  
June 5, 2006
- Complainant's Ex. 7: Firestone Pacific Foods, Inc., Penalty Recommendation and Recalculation  
Memorandum from Suzanne Powers to Robert Hartman, dated  
July 30, 2007
- Complainant's Ex. 8: Letter from PermaCold Engineering, Inc. to Mr. Stan Firestone, dated  
March 23, 2007
- Complainant's Ex. 9: The Firestone Pacific Foods, Inc.'s EPCRA Penalty Calculation  
Worksheets for Counts 1-15
- Complainant's Ex.10: Dun and Bradstreet Report for Firestone Pacific Foods, Inc. dated  
September 19, 2006
- Complainant's Ex.11: Ted Mix's Resume
- Complainant's Ex.12: Suzanne Powers's Resume
- Complainant's Ex.13: Record of Ted Mix's Telephone Conversation with John Wheeler on  
September 18, 2006
- Complainant's Ex.14: Record of Ted Mix's Telephone Conversation with Capt. Daniel  
Monaghan on September 18, 2006
- Complainant's Ex.15: Record of Ted Mix's Telephone Conversation with Mr. Zack Schmitz on  
May 15, 2006
- Complainant's Ex.16: Declaration of Sadie Whitener
- Complainant's Ex.17: Declaration of John Wheeler
- Complainant's Ex.18: Declaration of Daniel Monaghan

COMPLAINANT'S  
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Complainant's Ex. 19: EPA's Inspection Conclusion Data Sheet ("ICDS") for Firestone Pacific Foods, Inc., submitted May, 5, 2006

Complainant's Ex. 20: Emergency Chemical Release Reporting Compliance Assistance Packet

Complainant's Ex. 21: Record of Ted Mix's Telephone Conversation with John Wheeler and Deb Needham on April 2, 2007

Complainant's Ex. 22: Record of Ted Mix's Telephone Conversation with Daniel Monaghan on April 9, 2007

Complainant's Ex. 23: E-mail from Sadie Whitener to Suzanne Powers dated January 18, 2007

Complainant's Ex. 24: Copies of Firestone Pacific Foods, Inc.'s Tier II reports received by the SERC on December 22, 2006, and February 27, 2007

Respondent's Ex. 1: Letter from Stan Firestone to Robert Hartman of January 12, 2007

Respectfully submitted this 30 day of May 2008.

Counsel for Complainant



Robert Hartman  
Assistant Regional Counsel  
U.S. EPA Region 10

Counsel for Complainant

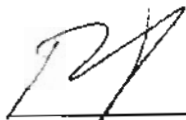


Shirin Venus  
Assistant Regional Counsel  
U.S. EPA Region 10

Counsel for Respondent

COMPLAINANT'S  
JOINT STIPULATIONS - 4  
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Ben Shafton  
Caren, Colven, Robinson & Shafton, P.S.  
900 Washington Street, Suite 1000  
Vancouver, Washington 9866

COMPLAINANT'S  
JOINT STIPULATIONS - 5  
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In the Matter of: Firestone Pacific Foods, Inc.

Docket No. EPCRA 10-2007-0204

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the **JOINT SET OF STIPULATED FACTS AND EXHIBITS**, were sent to the followings persons in the manner specified on the date below:

Original, and one true and correct copy, by hand delivery:

*Carol Kennedy, Regional Hearing Clerk  
US Environmental Protection Agency, Region 10  
Mail Stop ORC-158  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101*

One true and correct copy by hand delivered to:

*Robert Hartman, Assistant Regional Counsel  
US Environmental Protection Agency, Region 10  
Mail Stop ORC-158  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101*

One true and correct copy by fax to:

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

COMPLAINANT'S  
JOINT STIPULATION - 1  
DOCKET NO. EPCRA-10-2007-0204

U.S. Environmental Protection Agency  
1200 Sixth Avenue  
Seattle, Washington 98101  
(206) 553-1037

One true and correct copy by Certified Mail Return Receipt Requested delivered to

*Ben Shafton, Esquire  
Caron, Colven, Robinson & Shafton, P.S.  
900 Washington Street, Suite 1000  
Vancouver, Washington 98660*

Dated: May 30, 2008

Robert E. Haulman

COMPLAINANT'S  
JOINT STIPULATION - 2  
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