



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

APR 28 2011

REPLY TO THE ATTENTION OF:

LR-8J

CERTIFIED MAIL 7009 1680 0000 7667 1408
RETURN RECEIPT REQUESTED

Mr. Dieter Schormann
President
DMI Automotive, Incorporated
1200 Durant Drive
Howell, Michigan 48843

Re: Consent Agreement and Final Order
DMI Automotive, Incorporated
Docket No: RCRA-05-2011-0002

Dear Mr. Schormann:

Enclosed please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed on APR 28 2011, with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$40,648 in the manner prescribed in paragraph 13 of the CAFO, and reference all checks with the number BD 2751142R008 and docket number RCRA-05-2011-0002. Your payment is due within thirty (30) calendar days of the effective date of the CAFO. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

Sincerely,

Mary S. Setnicar
Acting Chief, RCRA Branch
Land and Chemicals Division

Enclosure

cc: Lonnie Lee, Michigan DEQ (w/CAFO)

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

2011 APR 28 PM 4:36

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	
)	Docket No. RCRA-05-2011-0002
DMI Automotive Inc.)	
1200 Durant Drive)	Proceeding to Assess a Civil
Howell, Michigan 48843)	Administrative Penalty and Issue a
)	Compliance Order under Section 3008(a)
U.S. EPA ID: MIR 000 021 444)	of the Solid Waste Disposal Act, as
)	amended, 42 U.S.C. § 6928(a)
Respondent.)	
_____)	

Consent Agreement and Final Order

Preliminary Statement

1. Complainant, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5, brought this administrative action seeking a civil penalty under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a).

2. Jurisdiction for this action is conferred upon the U.S. Environmental Protection Agency (U.S. EPA) by Sections 2002(a)(1), 3006(b), and 3008 of RCRA; 42 U.S.C. §§ 6912(a)(1), 6926(b), and 6928.

3. The Respondent is DMI Automotive Inc., a company incorporated in the State of Michigan, and is and was at all times relevant to this Consent Agreement and Final Order (CAFO), the operator and owner of a facility, as defined by MAC R 299.9106(f) and (g), respectively, located at 1200 Durant Drive, Howell, Michigan 48843 ("the Facility"), at which it conducts chromium plating on automotive dies.

4. On November 3, 2010, Complainant filed an Administrative Complaint ("the Complaint") in this matter, alleging that Respondent failed to comply with the following

exemption provisions of MAC R 299.9306 from the requirement to obtain a hazardous waste operating license: failure to obtain a tank assessment and certification [40 C.F.R. § 265.192(a)]; failure to provide secondary containment for the tank system [40 C.F.R. § 265.193(a)(1)]; failure to conduct inspections of the tank system [40 C.F.R. § 265.195(a)]; and failure to label tanks with the words "Hazardous Waste" [MAC R 299.9306(1)(c)], and, therefore, was in violation of the requirement to obtain an operating license for the storage of hazardous waste as required by Section 3005(a) of RCRA, 42 U.S.C. § 6924(a), Public Act 451 of 1994, Part 111, Michigan Compiled Laws 324.11101 et seq., and Michigan Administrative Code (MAC) R 299.9502. The allegations of the Complaint are incorporated herein.

5. Respondent has received extension of time to file an Answer to the Complaint in this matter, and this CAFO is being filed prior to Respondent filing an Answer.

Stipulations

6. Complainant and the Respondent agree that the settlement of this matter pursuant to Section 22.13(b) of the Consolidated Rules, 40 CFR § 22.13(b), is in the public interest and that the entry of this CAFO without engaging in litigation is the most appropriate means of resolving this matter.

7. Respondent admits the jurisdictional allegations set forth in the Complaint and in this CAFO.

8. Respondent neither admits nor denies the factual allegations set forth in the Complaint and in this CAFO.

9. Respondent consents to the issuance of this CAFO.

10. Respondent has demonstrated and certifies that it is now in compliance with the

requirements that formed the basis of the allegations of the Complaint. Respondent has submitted information to U.S. EPA showing that it has taken the following steps. Respondent hereby verifies that it:

- a.) obtained a tank assessment and certification for the tank system at issue;
- b.) has provided secondary containment for the tank system;
- c.) conducts inspections of the tank system;
- d.) labeled the tanks with the words "Hazardous Waste."

11. Based on Respondent's information and verification, as set forth in the above paragraph, U.S. EPA believes that Respondent is in compliance with the regulations and requirements cited in the Complaint.

Civil Penalty

12. In consideration of the steps Respondent has taken to achieve and maintain compliance, Respondent's good faith efforts to comply, Respondent's co-operation in U.S. EPA's investigation of the issues and co-operatively settling this matter, and other relevant factors, Complainant agrees to mitigate the proposed penalty of \$50,800 to \$40,648, and the parties have agreed to a civil penalty in that amount, to be paid as specified below.

13. Within 30 days after the effective date of this CAFO, Respondent must pay the \$40,648 civil penalty for the RCRA violations by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to: [for checks sent by regular U.S. Postal Service mail]

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

[for checks sent by express mail]

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must include Respondent's name (DMI Automotive Inc.), the docket number of this CAFO (RCRA-05-2011-0002) and the billing document number.

14. Upon payment of the civil penalty, Respondent shall send to each of the persons listed below a copy of the check and a transmittal letter referencing the name of Respondent and the docket number of this CAFO (RCRA-05-2011-0002):

Regional Hearing Clerk
U.S. EPA, Region 5
77 West Jackson Blvd. (E-19J)
Chicago, Illinois 60604-3590;

Andre Daugavietis
Associate Regional Counsel
U.S. EPA, Region 5
Office of Regional Counsel (C-14J)
77 West Jackson Blvd.
Chicago, Illinois 60604-3590; and

Michael Cunningham
U.S. EPA
77 West Jackson Blvd. (DE-8J)
Chicago, Illinois 60604-3590

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

General Provisions

16. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint.

17. 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 violation of law.

18. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws and permits.

19. Respondent waives any right to contest or appeal the factual allegations contained in this CAFO and any right to appeal the Final Order that accompanies this Consent Agreement.

20. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

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

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

23. Each party agrees to bear its own costs and attorney's fees in this action.

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

25. Respondent and U.S. EPA agree to the issuance and entry of the accompanying Final Order.

26. This CAFO shall become effective on the date it is filed with the Regional Hearing Clerk of U.S. EPA Region 5.

Agreed to by:

DMI Automotive Inc.

By:

Dieter Schormann
Dieter Schormann, President
DMI Automotive, Inc.

MARCH 25, 2011
Date

U.S. EPA Region 5

By: Richard C Karl 4-26-11
Richard C. Karl, Acting Director Date
Land and Chemicals Division
U.S. Environmental Protection Agency, Region 5

**IN THE MATTER OF:
DMI Automotive Inc.
1200 Durant Drive
Howell, Michigan 48843
Docket No.: RCRA-05-2011-0002**

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. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

4-28-11
Date

Susan Hedman
Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

CASE NAME: DMI Automotive, Incorporated
DOCKET NO: RCRA-05-2011-0002

RECEIVED
REGIONAL HEARING CLERK
U.S. EPA REGION 5
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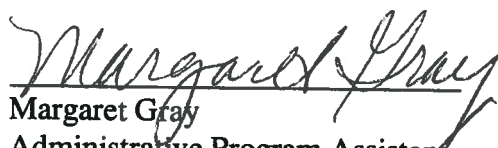
CERTIFICATE OF SERVICE

I hereby certify that today I filed two originals of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604-3590.

I further certify that I then caused one of the original filed documents to be mailed on the date below, via Certified Mail and Return Receipt Requested to:

Mr. Dieter Schormann
President
DMI Automotive, Incorporated
1200 Durant Drive
Howell, Michigan 48843
Certified Mail # **7009 1680 0000 7667 1408**

Dated: April 28, 2011


Margaret Gray
Administrative Program Assistant
United States Environmental Protection Agency
Region V
Land and Chemicals Division LR-8J
RCRA Branch
77 W. Jackson Blvd, Chicago, IL 60604-3590