



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
DEC 31 2019

REPLY TO THE ATTENTION OF

CERTIFIED MAIL 7017 3380 0000 7283 2427
RETURN RECEIPT REQUESTED

Mr. Peter Preu
Director of Human Resources
Semling-Menke Company
605 North Ohio Street
Merrill, Wisconsin 54452

Re: Expedited Settlement Agreement
Semling-Menke Company, Merrill, Wisconsin
Docket No: RCRA-05-2020-0003

Dear Mr. Preu:

Enclosed please find an original signed fully-executed Expedited Settlement Agreement (ESA) in resolution of the above case. The original was filed on December 31, 2019, with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$5,000 in the manner prescribed in paragraph 9 of the ESA, and reference all checks with the docket number RCRA-05-2020-0003. Your payment is due within 30 calendar days of the effective date of the ESA.

The ESA is binding on the U.S. Environmental Protection Agency and Semling-Menke Company. EPA will take no further action against the Respondent for the violations cited in the ESA. Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bryan Gangwisch".

Bryan Gangwisch
Land and Chemicals Enforcement and Compliance Assurance Branch

Enclosures

cc: Michael Ellenbecker, WI DNR, michael.ellenbecker@wisconsin.gov
Jayne Wade, WI DNR, jayne.wade@wisconsin.gov
Stuart Hersh, EPA, Office of Regional Counsel, hersh.stuart@epa.gov

In the matter of: Semling-Menke Company
Docket Number: RCRA-05-2020-0003

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement and Final Order**, docket number RCRA-05-2020-0003, which was filed on

December 31, 2019, in the following manner to the following addressees:

Copy by Certified Mail to
Respondent:

Mr. Peter Preu
Director of Human Resources
Semling-Menke Company
605 North Ohio Street
Merrill, Wisconsin 54452

Copy by E-mail to
Attorney for Complainant:

Stuart Hersh
stuart.hersh@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated:

December 31, 2019

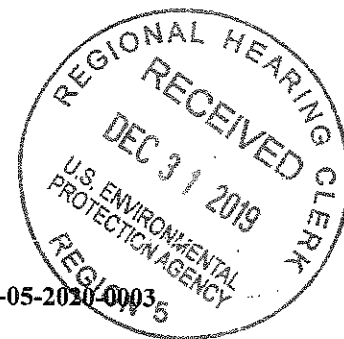


LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S):

7017 3380 0000 7283 2427

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5



IN THE MATTER OF:)
)
)
SEMLING-MENKE COMPANY)
EPA ID. No. WID982207144,)
Respondent.)
)
_____)

Docket No. RCRA-05-2010-0035
**EXPEDITED SETTLEMENT
AGREEMENT AND
FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (“EPA”) alleges that Semling-Menke Company (“Respondent”) owns and operates a facility located at 605 North Ohio Street, Merrill, Wisconsin (“Facility”) that is subject to Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* (“RCRA”), EPA’s regulations implementing RCRA (40 C.F.R. parts 260-279), and the EPA approved and authorized Wisconsin hazardous waste management program for Large Quantity Generators (chapters 660-679), Wis. Admin. Code) because Semling-Menke Company generates over 1000kg (2205 lbs) of non-acute hazardous waste in a calendar month or over 1kg of acute hazardous waste in a calendar month.
2. Under Wis. Admin. Code §§ NR 662 and 665, Respondent may avoid the need for a hazardous waste license by meeting certain license exemption requirements including, but not limited to, marking accumulation start dates on hazardous waste containers so the dates are visible for inspection, maintaining hazardous waste training records and documents, and maintaining and amending a hazardous waste contingency plan for large quantity generators.
3. EPA alleges that at the time of its August 7, 2018 inspection, Respondent failed to meet the following license exemption requirements set forth at Wis. Admin. Code §§ NR 662.034(1) and NR 665, by not marking accumulation start dates on hazardous waste containers so the dates are visible for inspection, by not ensuring that hazardous waste management requirements are included as part of documented training and not maintaining all of the documents and records at the facility that related to hazardous waste management training, and not maintaining and amending a hazardous waste contingency plan in accordance with Wis. Admin. Code §§ NR 662.034(1)(b); NR 662.034(1)(d) and 665.0016(4)(a)-(d); NR 662.034(1)(d) and 665.0052(2), 665.0052(4) and (5), and 665.0054. By failing to comply with the requirements for a license exemption, above, Respondent became an operator of a hazardous waste storage facility and was required to obtain a Wisconsin hazardous waste storage license. Respondent failed to apply for such a license and violated the requirements of Wis. Admin. Code §§ NR 670.001(3), 670.010(1) and (4).

4. EPA alleges that at the time of its August 7, 2018 inspection, Respondent failed to meet the following generator requirements set forth at Wis. Admin. Code § NR 662, by not documenting and determining the specification analyses for used oil burned for energy recovery; not containing any lamp in containers or packages that are structurally sound, adequate to prevent breakage and compatible with the contents of the lamps and by failing to ensure that containers and packages remained closed and evidenced a lack of leakage, spillage or damage under reasonably foreseeable conditions; and by failing to demonstrate the length of time that the universal waste has been accumulated from the date it became a waste or was received as set forth in Wis. Admin. Code §§ NR 679.11; and NR 673.13(4)(a), 673.14(5), and 673.15(3).
5. EPA and Respondent agree that settlement of this matter for a penalty of five thousand dollars (\$5,000) is in the public interest.
6. EPA is authorized to enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008 of RCRA and 40 C.F.R. § 22.13(b).
7. Respondent: (1) admits that EPA has jurisdiction over Respondent and Respondent’s conduct as alleged herein, (2) neither admits nor denies the factual allegations contained herein; (3) consents to the assessment of this penalty; and (4) waives any right to contest the allegations contained herein.
8. Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violations have been corrected, and (2) that Respondent will pay the civil penalty in accordance with this Agreement.
9. Within 30 calendar days after the effective date of this Agreement, Respondent shall pay a civil penalty of \$5,000 for the RCRA violations identified in this Agreement. There are four options for paying this civil penalty:
 - a. By sending a cashier’s or certified check, payable to “Treasurer, United States of America” to:
 - i. 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, Missouri 63197-9000

- ii. 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, Missouri 63101

The face of the check must state the case title (“*In the Matter of: Semling-Menke Company*”) and the docket number of this Agreement.

- b. Or by electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message is
“D68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state “*In the Matter of: Semling-Menke Company*” and the docket number of this Agreement.

- c. Or by ACH electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

- d. Or by paying online and following the instructions found here:

WWW.PAY.GOV

Use the Search Public Forms option and enter ‘sfo 1.1’ in the search field.
Open form and complete required fields.

- 10. Respondent must send a notice of payment that states Respondent’s name, complete address, and the case docket number (along with a photocopy of the check, if applicable) to EPA at the following addresses, when it pays the penalty:

Regional Hearing Clerk
U.S. EPA, Region 5
77 West Jackson Boulevard (E-19J)
Chicago, IL 60604

Bryan Gangwisch
U.S. EPA, Region 5
77 West Jackson Boulevard (ECR-17J)
Chicago, IL 60604

Stuart Hersh
U.S. EPA, Region 5
77 West Jackson Boulevard (C-14J)
Chicago, IL 60604

11. The civil penalty is not deductible for federal tax purposes.
12. U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.
13. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this Agreement. Interest will accrue on any amount overdue at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.
14. Payment of the civil penalty shall constitute full settlement of the civil claim alleged herein.
15. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
16. Upon signing and returning this Agreement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 3008(b) of RCRA.
17. Each party shall bear its own costs and fees, if any.
18. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. 22.31(b), is effective upon filing.

IT IS SO AGREED,

In the Matter of:

Semling-Menke Company

Docket Number: RCRA-05-2020-0003

SEMLING-MENKE COMPANY

Name (print): Patrick L. Semling

Title (print): President

Signature: Patrick L. Semling

Date 11/12/19

APPROVED BY EPA:

Sara Brenema

Date 12-18-19

for

Michael D. Harris

Division Director

Enforcement and Compliance Assurance Division

U.S. Environmental Protection Agency

Region 5

In the Matter of:
Semling-Menke Company
Docket Number: RCRA-05-2020-0003



FINAL ORDER

This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Expedited Settlement Agreement and Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED:

12/30/19
Date

Ann Coyle
Ann Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5