

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: ) DOCKET NO. EPCRA-10-2020-0088  
)  
PACIFIC PROPELLER ) **CONSENT AGREEMENT**  
INTERNATIONAL LLC, )  
)  
Kent, Washington, )  
)  
Respondent. )

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**I. STATUTORY AUTHORITY**

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045.

1.2. Pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and Pacific Propeller International LLC ("Respondent") agrees to issuance of, the Final Order attached to this Consent Agreement ("Final Order").

**II. PRELIMINARY STATEMENT**

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Enforcement and Compliance Assurance Division, EPA Region IO ("Complainant") has been delegated the authority pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of EPCRA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of EPCRA together with the specific provisions of EPCRA and the implementing regulations that Respondent is alleged to have violated.

### **III. ALLEGATIONS**

#### **A. STATUTORY AND REGULATORY BACKGROUND**

3.1. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), provides that the owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970 [29 U.S.C.A. § 651 et seq.] and regulations promulgated under that Act shall prepare and submit an emergency and hazardous chemical inventory form ("Inventory Form") to each of the following: (A) the appropriate Local Emergency Planning Committee; (B) the State Emergency Response Commission; and (C) the fire department with jurisdiction over the facility.

3.2. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), provides that the Inventory Form must be submitted annually by March 1.

3.3. The Occupational Health and Safety Administration regulations at 29 C.F.R. § 1910.1200(g) provides that employers shall have a safety data sheet in the workplace for each hazardous chemical which they use.

3.4. Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), provides that the term "hazardous chemical" has the meaning given such term by 29 C.F.R. § 1910.1200(c).

3.5. 29 C.F.R. § 1910.1200(c) defines "hazardous chemical" as any chemical which is classified as a physical hazard or a health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified.

3.6. 29 C.F.R. § 1910.1200(c) defines "health hazard" as a chemical which is classified as posing one of the following hazardous effects: acute toxicity (any route of exposure); skin corrosion or irritation; serious eye damage or eye irritation; respiratory or skin sensitization; germ cell mutagenicity; carcinogenicity; reproductive toxicity; specific target organ toxicity (single or repeated exposure); or aspiration hazard.

3.7. 29 C.F.R. § 1910.1200(c) defines "physical hazard" as a chemical that is classified as posing one of the following hazardous effects: explosive; flammable (gases, aerosols, liquids, or solids); oxidizer (liquid, solid or gas); self-reactive; pyrophoric (liquid or solid); self-heating; organic peroxide; corrosive to metal; gas under pressure; or in contact with water emits flammable gas.

3.8. 40 C.F.R. § 370.10 provides that the owner or operator of a facility must comply with the reporting requirements if the facility is required to have a Material Safety Data Sheet and either (1) A hazardous chemical that is an Extreme Hazardous Substance is present at the facility at any one time in an amount equal or greater than 500 pounds or the Threshold Planning Quantity, whichever is lower, or (2) A hazardous chemical that is not an EHS is present at the facility at any one time in an amount equal to or greater than the threshold for that hazardous chemical.

3.9. Sodium Cyanide is an Extremely Hazardous Substance.

3.10. Appendix A to 40 C.F.R. Part 355 lists the Threshold Planning Quantity for Sodium Cyanide as 100 pounds.

3.11. Potassium Cyanide is an Extremely Hazardous Substance.

3.12. Appendix B to 40 C.F.R. Part 355 lists the Threshold Planning Quantity for Potassium Cyanide as 100 Pounds.

3.13. Sulfuric Acid is an Extremely Hazardous Substance.

3.14. Appendix B to C.F.R. Part 355 lists the Threshold Planning Quantity for Sulfuric Acid as 1000 Pounds.

## **B. FACTUAL BACKGROUND**

3.15. During 2017, 2018, and 2019 the Respondent stored the following hazardous chemicals at its facility at or above the Threshold Planning Quantity: Sodium Cyanide, Potassium Cyanide and Sulfuric Acid.

3.16. The Respondent was required to have a safety data sheet for each of these chemicals.

3.17. The Respondent was therefore required to submit an Inventory Form to the State emergency planning commission, the local emergency planning committee, and the Fire Department with jurisdiction over its facility by March 1, 2018, March 1, 2019, and March 1, 2020.

3.18. The Respondent submitted an Inventory Form to the State Emergency Planning Commission, the Local Emergency Planning Committee, and the Fire Department with jurisdiction over its facility by March 1, 2020, for the chemicals it stored during 2019.

## C. CLAIMS

### Count 1: Delinquent submittal of 2017 Inventory Form

3.19. The Respondent failed to submit an Inventory Form to the State Emergency Response Commission by March 1, 2018.

3.20. The Respondent submitted the 2017 Inventory Form to the State Emergency Response Commission on June 14, 2018.

### Count 2: Failure to submit 2017 Inventory Form

3.21. The Respondent failed to submit an Inventory Form to the Local Emergency Planning Committee by March 1, 2018.

3.22. The Respondent has not submitted the 2017 Inventory Form to the Local Emergency Planning Committee.

### Count 3: Failure to submit 2017 Inventory Form

3.23. The Respondent failed to submit an Inventory Form to the Fire Department with jurisdiction over its facility by March 1, 2018.

3.24. The Respondent has not submitted to 2017 Inventory Form to the Fire Department with jurisdiction over its facility.

### Count 4: Delinquent submittal of 2018 Inventory Form

3.25. The Respondent failed to submit the 2018 Inventory Form to the State Emergency Response Commission by March 1, 2019.

3.26. The Respondent submitted the 2018 Inventory Form to the State Emergency Response Commission on March 13, 2019.

### Count 5: Failure to submit 2018 Inventory Form to the LEPC

3.27. The Respondent failed to submit the 2018 Inventory Form to the

Local Emergency Planning Committee by March 1, 2019.

3.28. The Respondent has not submitted the 2018 Inventory Form to the Local Emergency Planning Committee.

Count 6: Failure to submit 2018 Inventory Form to the Fire Department

3.29. Respondent failed to submit the 2018 Inventory Form to the Fire Department with jurisdiction over its facility by March 1, 2019.

3.30. The Respondent has not submitted the 2018 Inventory Form to the Fire Department with jurisdiction over its facility.

**C. ENFORCEMENT AUTHORITY**

3.31. Respondent violated Section 312 of EPCRA, 42 U.S.C. § 11022.

3.32. Under Section 325 of EPCRA, 42 U.S.C. § 11045, and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$57,317 for each such violation.

**IV. TERMS OF SETTLEMENT**

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$66,300 (the "Assessed Penalty").

4.4. Pursuant to 31 U.S.C. § 3717(a)(1) and 40 C.F.R. § 13.11(a)(1), Respondent must pay an annual rate of interest that is equal to the rate of the current value of funds to the United States Treasury on any portion of the penalty agreed to in Paragraph 4.3 not paid within 30 days of the effective date of this Consent Agreement and Final Order.

4.5. The rate of the current value of funds to the United States Treasury is 2%.

Pursuant to 40 C.F.R. § 13.1 l(a)(3), the rate of interest, as initially assessed, remains fixed for the duration of indebtedness.

4.6. Respondent agrees to pay the Assessed Penalty set forth in Paragraph 4.3 in four installments. The first installment of at least \$16,575 must be paid within 30 days of the effective date of this Consent Agreement and Final Order. The second installment of \$16,823.62 (consisting of \$16,575 plus \$248.62 in accrued interest) must be paid within 120 days of the effective date of this Consent Agreement and Final Order. The third installment of \$16,740.75 (consisting of \$16,575 plus \$165.75 in accrued interest) must be paid within 210 days of the effective date of this Consent Agreement and Final Order. The fourth installment of \$16,657.88 (consisting of \$16,575 plus **\$82.88** in accrued interest) must be paid within 300 days of the effective date of this Consent Agreement and Final Order.

4.7. If Respondent desires, Respondent may pay more than the minimum required installment payment. If Respondent chooses to exercise this option, any future installment payments must consist of a payment plus 2% annual interest.

4.8. Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <https://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

Respondent must note on the check the title and docket number of this action.

4.9. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 10, Mail Stop 11-C07  
1200 Sixth Avenue, Suite 155  
Seattle, Washington 98101  
RIO\_RHC@epa.gov

Erin Williams  
U.S. Environmental Protection Agency  
Region 10, Mail Stop 20-C04  
1200 Sixth Avenue, Suite 155  
Seattle, Washington 98101  
Williams.Erin@epa.gov

4.10. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of the Assessed Penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action under Section 325(t)(I) of EPCRA, 42 U.S.C. § 11045(f)(I), to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below.

4I II. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, Respondent shall also be responsible for payment of the following amounts:

a. Interest. Pursuant to 31 U.S.C. § 3717(a)(I), any unpaid portion of the Assessed Penalty shall bear interest at the rate established by the Secretary of the Treasury from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order contained herein.



b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the Assessed Penalty is more than 30 days past due.

c. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the Assessed Penalty that is more than 90 days past due, which nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

4.12. The Assessed Penalty, including any additional costs incurred under Paragraph 4.11, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.13. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.14. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III.

4.15. Except as described in Paragraph 4.11 each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.16. For purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in this Consent Agreement and to appeal the Final Order.

4.17. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.18. Respondent consents to the issuance of any specified compliance or corrective action order, to any conditions specified in this consent agreement, and to any stated permit action.

4.19. The above provisions in Part IV are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

5/19/20

FOR RESPONDENT:



TIM GELLERSON,  
Pacific Propeller International, LLC

DATED:

\_\_\_\_\_

FOR COMPLAINANT:

**LAURIS DAVIES**

Digitally signed by LAURIS  
DAVIES  
Date: 2020.05.22 11:57:00  
-07'00'

LAURIS C. DAVIES, Acting Director  
Enforcement & Compliance Assurance Division  
EPA Region 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	DOCKET NO. EPCRA-10-2020-0088
	)	
PACIFIC PROPELLER	)	<b>FINAL ORDER</b>
INTERNATIONAL LLC,	)	
	)	
Kent, Washington,	)	
	)	
Respondent.	)	

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1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under EPCRA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of EPCRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this \_\_\_ day of \_\_ \_\_ \_\_ \_\_ \_\_, 2020.

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RICHARD MEDNICK  
Regional Judicial Officer  
EPA Region I 0

**In the Matter of: Pacific Propeller International LLC**  
**Docket Number: EPCRA-I0-2020-0088**

**U.S. Environmental Protection Agency**  
**1200 Sixth Avenue, Suite 1550, M/S 1 t-C07**