

UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY  
2018 MAR 27 AM 7:44

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219**

**In the Matter of:** )  
 )  
 **Shearer's Snacks LLC** ) **Docket No. RCRA-07-2018-0168**  
 **EPA ID. No. IAD107346504,** )  
 ) **EXPEDITED SETTLEMENT**  
 **Respondent** ) **AGREEMENT AND FINAL ORDER**

**EXPEDITED SETTLEMENT AGREEMENT**

1. The U.S. Environmental Protection Agency ("EPA") alleges that Shearer's Snacks LLC ("Respondent"), owner or operator of the facility located at 3000 Mount Pleasant Street, Burlington, Iowa (the "Facility"), failed to comply with Resource Conservation and Recovery Act ("RCRA").
2. During an inspection of the Facility on June 20, 2017, the following violations of RCRA and its implementing regulations were observed:
  - A. Mark one satellite accumulation container with the words "Hazardous Waste" or with other words that identify the contents of the containers and indicate the nature of the hazards of the contents. 40 C.F.R. §§ 262.15(a)(5)(i) and (ii).
  - B. Close one hazardous waste accumulation container holding hazardous waste, except when waste is being added or removed. 40 C.F.R. § 262.16(b)(2)(iii)(A).
  - C. Equip all areas where hazardous waste is either generated or accumulated with an internal communications or alarm system capable of providing immediate emergency instruction to facility personnel. 40 C.F.R. § 262.16(b)(8)(ii)(A).
  - D. Equip all areas where hazardous waste is either generated or accumulated with portable fire extinguishers, fire control equipment, spill control equipment, and decontamination equipment. 40 C.F.R. § 262.16(b)(8)(ii)(C).
  - E. Post next to telephones or in areas directly involved in the generation and accumulation of hazardous waste the location of fire extinguishers and spill control material, and if present, fire alarm. 40 C.F.R. § 262.16(b)(9)(ii).
  - F. Ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies. 40 C.F.R. § 262.16(b)(9)(iii).
  - G. Mark or label three universal waste battery containers with the words "Universal Waste-Batteries", "Waste Batteries", or "Used Batteries", and mark or label six universal waste lamp containers with the words "Universal Waste-Lamps," "Waste Lamps," or "Used Lamps". 40 C.F.R. §§ 273.14(a) and (e).
  - H. Demonstrate the length of time universal waste batteries and universal waste lamps had accumulated from the date they become a waste. 40 C.F.R. § 273.15(c).

- I. Inform all employees who handle or have responsibility for managing universal waste with information describing proper handling and emergency procedures appropriate to the types of universal waste handled at the facility. 40 C.F.R. § 273.16.
  - J. Label or mark one used oil storage container with the words "Used Oil". 40 C.F.R. § 279.22(c)(1).
3. EPA and Respondent agree that settlement of this matter for a penalty of Ten Thousand Dollars (\$10,000) is in the public interest.
  4. 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).
  5. In signing this Agreement, Respondent: (a) admits that Respondent is subject to RCRA and its implementing regulations; (b) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; (e) waives any right to contest any issue of fact or law set forth herein; and (f) waives its right to appeal the Final Order accompanying this Agreement.
  6. By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (a) the alleged violations have been corrected, and (b) Respondent is submitting proof of payment of the civil penalty with this Agreement.
  7. The undersigned representative of Respondent certifies that 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.
  8. The civil penalty of Ten Thousand Dollars (\$10,000) should be paid in accordance with EPA Region 7 Penalty Collection Procedures provided to the Respondent.
  9. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.
  10. 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.
  11. Upon signing and returning this Agreement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 3008(b) of RCRA.
  12. Each party shall bear its own costs and fees, if any.
  13. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. 22.31(b), is effective upon filing.

**FINAL ORDER**

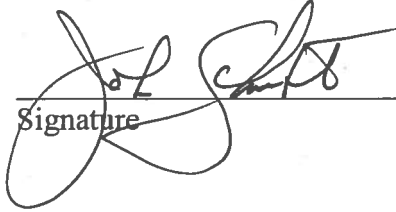
Pursuant to the authority of Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), and according to the terms of this Expedited Settlement Agreement and Final Order, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a civil penalty of Ten Thousand Dollars (\$10,000) within 30 days of its receipt of the letter invitation setting forth the opportunity for expedited settlement. Such payment shall identify Respondent by name and docket number and be paid in accordance with the Penalty Collection Procedures provided to Respondent.
2. A copy of the certified or cashier's check or other information confirming payment shall simultaneously be sent via certified mail to the following:  
  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219; and  
  
Kelley Catlin  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219.
3. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this CAFO shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.
4. This Expedited Settlement Agreement and Final Order shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

IT IS SO AGREED,

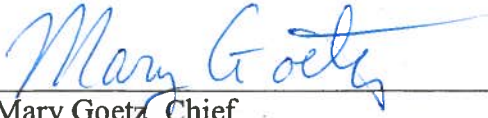
John Schmitt  
Name (print)

Plant Director  
Title (print)

  
Signature

Date 3/19/18

APPROVED BY EPA:



Mary Goetz, Chief  
Waste Enforcement and Materials Management Branch  
Air and Waste Management Division

Date 21 Mar 2018



Kelley Catlin, Attorney  
Office of Regional Counsel

Date 3/21/18

IT IS SO ORDERED:

Karina Borrromeo  
Karina Borrromeo  
Regional Judicial Officer

Date March 26, 2018

**CERTIFICATE OF SERVICE**

I certify that 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 via Email to Complainant:

Kelley Catlin.

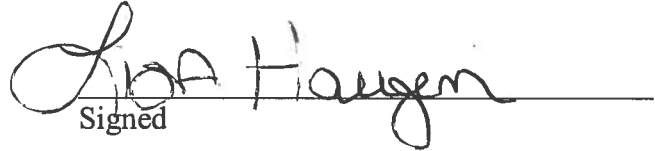
Copy via Email to Respondent:

Richard Hollerauer.

Copy via Email to the State of Iowa:

Amie Davidson, Chief  
Contaminated Sites Section  
Iowa Department of Natural Resources

Dated this 27 day of March, 2018.

  
Signed \_\_\_\_\_