



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

REPLY TO THE ATTENTION OF

(C-14J)

May 14, 2009

Judge William B. Moran
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-2001

Re: Pork King Packing, Inc., Marengo, Illinois.
Docket No. EPCRA-05-2008-0024.

Dear Judge Moran:

Attached, please find COMPLAINANT MOTION TO POSTPONE HEARING for this civil administrative action which I filed today with the Regional Hearing Clerk.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Trevino".

Jeffery M. Trevino
Associate Regional Counsel

Attachment

cc: **La Dawn Whitehead**
Regional Hearing Clerk
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (E-19J)
Chicago, IL 60604-3590

John J. Conway
Sullivan Hincks & Conway
Suite 100
120 West 22nd Street
Oak Brook, IL 60523

RECEIVED
REGIONAL HEARING CLERK
US EPA REGION V

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

09 MAY 14 AM 7:55

In the Matter of:)
)
Pork King Packing, Inc.,) **Docket No. EPCRA-05-2008-0024.**
)
Respondent)

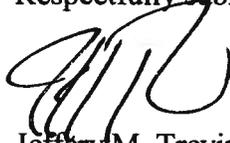
COMPLAINANT MOTION TO POSTPONE HEARING

Pursuant to 40 C.F.R. § 22.16 Complainant hereby files this Motion to Postpone the Hearing for this civil administrative action, scheduled for June 2 - 5, 2009, in Chicago, Illinois, due to the following facts.

1. On May 7, 2009, the parties agreed to final language for a Consent Agreement and Final Order ("CAFO") to resolve this action without resort to hearing.
2. On May 7, 2009, Thomas Miles, President, Pork King Packing, Inc., Marengo, Illinois, signed and dated the CAFO. (Attached).
3. Complainant requires ten (10) to fifteen (15) business days to sign, date, and file the CAFO with the Regional Hearing Clerk.
4. Respondent does not object to this Motion.

WHEREFORE, Complainant requests the Court postpone the hearing for this action.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Trevino', written over the typed name.

Jeffery M. Trevino
Associate Regional Counsel
Office of Regional Counsel
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (C-14J)
Chicago, Illinois 60604-3590
Tel. No. (312) 886-6729
Fac. No. (312) 886-3112

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REGIONAL HEARING CLERK
US EPA REGION V

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**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

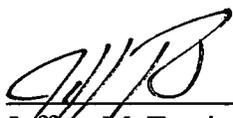
In the Matter of:)
)
Pork King Packing, Inc.,) **Docket No. EPCRA-05-2008-0024.**
)
Respondent)

CERTIFICATE OF SERVICE

I hereby certify that today I filed with La Dawn Whitehead, Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, 77 West Jackson Boulevard (E-19J), Chicago, Illinois, 60604-3590, the original document entitled COMPLAINT MOTION TO POSTPONE HEARING for this civil administrative action and I issued to the Court and Respondent by first class mail a copy of the original document:

Judge William B. Moran
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-2001

John J. Conway
Sullivan Hincks & Conway
Suite 100
120 West 22nd Street
Oak Brook, IL 60523



Jeffery M. Trevino
Associate Regional Counsel



Dated

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)
)
Pork King Packing, Inc.,) **Docket No. EPCRA-05-2008-0024**
)
Respondent)

CONSENT AGREEMENT AND FINAL ORDER

CONSENT AGREEMENT

1. Complainant, the Chief, Emergency Response Branch 2, Superfund Division, Region 5, United States Environmental Protection Agency (U.S. EPA), filed this civil administrative action pursuant to Sections 325(c)(1) and (c)(2) of the Emergency Planning Community Right-To-Know Act of 1986 (EPCRA), 42 U.S.C. §§ 11045(c)(1) and (c)(2).

2. On August 8, 2008, U.S. EPA filed the Complaint for this action against Respondent Pork King Packing, Inc., 8808 South Illinois Route 23, Marengo, Illinois. The Complaint alleged Respondent failed to: submit to the State Emergency Response Commission (SERC), Local Emergency Planning Committee (LEPC), and local fire department, by March 31, 2004, a Material Safety Data Sheet (MSDS) for anhydrous ammonia or sulfuric acid, or a list showing anhydrous ammonia or sulfuric acid in violation of Section 311 of EPCRA, 42 U.S.C. § 11021.; submit to the SERC, the LEPC, and the local fire department timely an Emergency and Hazardous Chemical Inventory Form including anhydrous ammonia and sulfuric acid for calendar years 2003 and 2004, in violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a); and, submit to the SERC, the LEPC, and the local fire department timely an Emergency and Hazardous Chemical Inventory

Form including anhydrous ammonia and sulfuric acid for calendar year 2007, in violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

3. On or about September 3, 2008, Respondent filed its Answer, which denied the alleged violations, and requested a hearing under Section 325(b)(1)(B) of EPCRA, 42 U.S.C. § 11045(b)(1)(B).

4. The parties agree the settlement of this civil administrative action without the adjudication of any issue of fact or law is in their interest and the public interest.

Stipulations

5. Respondent admits the jurisdictional allegations of the Complaint, pursuant to 40 C.F.R. § 22.18(b)(2), and admits or denies the remaining factual allegations of the Complaint as documented in its Answer.

6. Respondent admits the facts stipulated in this Consent Agreement, pursuant to 40 C.F.R. § 22.18(b)(2). Respondent makes no other admissions as a result of entering into this Consent Agreement and Final Order.

7. Respondent consents to the assessment of a civil penalty, pursuant to 40 C.F.R. § 22.18(b)(2).

8. Respondent waives any right to contest the allegations and its right to appeal the Final Order accompanying this Consent Agreement, pursuant to 40 C.F.R. § 22.18(b)(2).

Civil Penalty

9. U.S. EPA and Respondent agree to resolve this action for a total civil penalty of \$56,000.00.

10. Within thirty days of the effective date of this CAFO, Respondent must pay a \$56,000.00 civil penalty for its alleged violations of Sections 311 and 312(a) of EPCRA, 42 U.S.C. §§ 11021 and 11022(a). Respondent must pay the penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

The check must note the case title of this matter, the docket numbers of this CAFO, and the billing document number _____.

11. Respondent must include with each check a transmittal letter, stating the case title, Respondent's complete address, the case docket numbers, and the billing document number.

Respondent must send copies of its check and transmittal letter to:

Regional Hearing Clerk
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (E-19J)
Chicago, IL 60604-3511

Ginger Jager
Chemical Emergency Preparedness and Prevention Section
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (SC-6J)
Chicago, IL 60604-3511

Jeffery M. Trevino
Office of Regional Counsel
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (C-14J)
Chicago, IL 60604-3511

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

13. If Respondent does not pay the civil penalty timely 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's enforcement expenses for the collection action.

14. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15.00 handling charge each month that any portion of the penalty due is more than thirty (30) days past due. U.S. EPA will assess a six percent (6%) per year penalty on any principal amount not paid timely pursuant to this CAFO

15. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions unrelated to the allegations in the Complaint subsequently commenced pursuant to Federal laws and regulations administered by the EPA, and it is the responsibility of Respondent to comply with such laws and regulations. The EPA at present has no knowledge of any such potential or contemplated actions.

16. 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 violations of law.

17. This CAFO does not affect Respondent's responsibility to comply with EPCRA and other applicable federal, state, and local laws, and regulations.

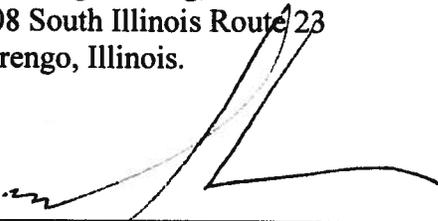
18. This CAFO is a "final order" for purposes of U.S. EPA's Enforcement Response Policy for Section 325 of EPCRA.

19. The terms of this CAFO bind Respondent and its successors and assigns.
20. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.
21. Each party agrees to bear its own costs and fees, including attorney's fees, for this action.
22. This CAFO constitutes the entire agreement between the parties.

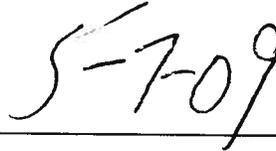
**In the Matter of: Pork King Packing, Inc., Marengo, Illinois.
Docket No. EPCRA-05-2008-0024.
Consent Agreement and Final Order.**

RESPONDENT

Pork King Packing, Inc.
8808 South Illinois Route 23
Marengo, Illinois.



Thomas Miles, President



Date

COMPLAINANT

Superfund Division
Region 5
United States Environmental Protection Agency

Linda M. Nachowicz, Chief
Emergency Response Branch 2
Superfund Division

Date

Richard C. Karl, Director
Superfund Division

Date

**In the Matter of: Pork King Packing, Inc., Marengo, Illinois.
Docket No. EPCRA-05-2008-0024.
Consent Agreement and Final Order.**

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. IT IS SO ORDERED.

Bharat Mathur
Acting Regional Administrator
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago Illinois 60604-3590

**In the Matter of: Pork King Packing, Inc., Marengo, Illinois.
Docket No. EPCRA-05-2008-0024.
Consent Agreement and Final Order.**

CERTIFICATE OF SERVICE

I, Ginger Jager, certify on the _____ day of _____, 2009, I hand delivered the original of the Consent Agreement and Final Order for this action to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to the Honorable Susan L. Biro, Chief Administrative Law Judge, and to Respondent by placing them in the custody of the United States Postal Service addressed as follows:

The Honorable Susan L. Biro
Chief Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-2001

John J. Conway
Sullivan Hincks & Conway
Suite 100
120 West 22nd Street
Oak Brook, IL 60523

Ginger Jager
Environmental Scientist
Chemical Emergency Preparedness and Prevention Section
Region 5
Superfund Division
U.S. Environmental Protection Agency