



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

JUN 28 2011

REPLY TO THE ATTENTION OF:

SC-5J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Todd Fox  
President  
N. J. Fox & Sons, Inc.  
40 West Second Street  
Shelby, Michigan 49455

Re: N. J. Fox & Sons, Inc., Shelby, Michigan, Consent Agreement and Final Order  
Docket No. EPCRA-05-2011-0021

Dear Mr. Fox:

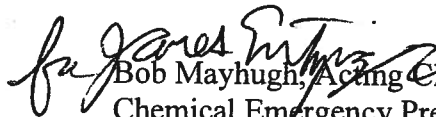
Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the other original CAFO with the Regional Hearing Clerk on JUN 23 2011.

Please pay the Emergency Planning and Community Right-to-Know Act civil penalty in the amount of \$11,170 in the manner prescribed in paragraph 62, and reference your check with the billing document number 2751144E019 and the docket number EPCRA-05-2011-0021.

Your payments are due on JUL 25 2011.

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Steven P. Kaiser, Associate Regional Counsel, at (312) 353-3804. Thank you for your assistance in resolving this matter.

Sincerely,

  
Bob Mayhugh, Acting Chief  
Chemical Emergency Preparedness  
and Prevention Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:

N. J. Fox & Sons, Inc.  
Shelby, Michigan

Respondent.

**RECEIVED**  
**JUN 23 2011**  
**REGIONAL HEARING CLERK**  
**U.S. ENVIRONMENTAL**  
**PROTECTION AGENCY**

Docket No. EPCRA-05-2011-0021

Proceeding to Assess a Civil Penalty Under  
Sections 325(c)(1) and (c)(2) of the  
Emergency Planning and Community Right-  
to-Know Act of 1986

Consent Agreement and Final Order  
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 325(c)(1) and (c)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. §§ 11045(c)(1) and (c)(2), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is, by lawful delegation, the Director of the Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. Respondent is N. J. Fox & Sons, Inc., a Michigan corporation doing business in the State of Michigan.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and the terms of the CAFO.

**Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

**Statutory and Regulatory Background**

9. Section 311 of EPCRA, 42 U.S.C. § 11021, and its implementing regulations at 40 C.F.R. Part 370, require the owner or operator of a facility, which is required by the Occupational Safety and Health Act (OSHA) to prepare or have available a material safety data sheet (MSDS) for a hazardous chemical, to submit to the state emergency response commission (SERC), community emergency coordinator for the local emergency planning committee (LEPC), and the fire department with jurisdiction over the facility an MSDS for each such hazardous chemical present at the facility at any one time in an amount equal to or greater than 10,000 pounds, and for each extremely hazardous chemical present at the facility in an amount equal to or greater than 500 pounds, or the threshold planning quantity (TPQ), whichever is lower, or to submit a list of such chemicals. The owner or operator must submit the required MSDS or list within three months after the owner or operator is first required to have the MSDS available or after the hazardous chemical requiring an MSDS first becomes present at the facility in an amount exceeding the threshold level.

10. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370, require the owner or operator of a facility, which is required by the OSHA to prepare or have available an MSDS for a hazardous chemical, to submit to the SERC, community coordinator for the LEPC, and fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter, an emergency and hazardous chemical inventory form (Tier I or Tier II as described in 40 C.F.R. Part 370). The form must contain the information required by Section 312(d) of EPCRA, covering all hazardous chemicals present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000 pounds and all extremely hazardous chemicals present at the facility at any one time in amounts equal to or greater than 500 pounds or the threshold planning quantity designated by U.S. EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

11. Sections 311 and 312(a) of EPCRA, 42 U.S.C. §§ 11021 and 11022(a), assist state and local committees in planning for emergencies and makes information on chemical presence and hazards available to the public. A delay in reporting could result in harm to human health and the environment.

12. Under 29 C.F.R. § 1910.1200(b)(1), all employers are required to provide information to their employees about the hazardous chemicals to which they are exposed including, but not limited to, MSDS.

13. Under 29 C.F.R. § 1910.1200(d)(3), chemicals listed in 29 C.F.R. Part 1910, Subpart Z are hazardous chemicals.

14. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), authorizes U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation of Section 312. The Debt Collection

Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$27,500 per day of violation for violations that occurred after January 31, 1997 through March 15, 2004, to \$32,500 per day of violation for violations that occurred after March 15, 2004 through January 12, 2009, and to \$37,500 per day of violation for violations that occurred after January 12, 2009.

15. Section 325(c)(2) of EPCRA, 42 U.S.C. § 11045(c)(2), authorizes U.S. EPA to assess a civil penalty of up to \$10,000 for each EPCRA Section 311 violation. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty to \$11,000 per day of violation for EPCRA 311 violations that occurred after January 31, 1997 through January 12, 2009 and to \$16,000 per day of violation for violations that occurred after January 12, 2009.

#### **Factual Allegations and Alleged Violations**

16. Respondent is a “person” as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

17. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 40 West Second Street, Shelby, Michigan (facility).

18. At all times relevant to this CAFO, Respondent was an employer at the facility.

19. Respondent’s facility consists of buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites, and which are owned or operated by the same person.

20. Respondent’s facility is a “facility” as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

21. Anhydrous Ammonia (CAS #7664-41-7) is listed as a toxic and hazardous substance under OSHA regulations at 29 C.F.R. Part 1910, Subpart Z, and 29 C.F.R. § 1910.1000, Table Z-1.
22. Anhydrous ammonia (CAS #7664-41-7) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).
23. Anhydrous ammonia (CAS #7664-41-7) is an “extremely hazardous substance” according to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).
24. Anhydrous ammonia (CAS #7664-41-7) has a minimum threshold level of 500 pounds, as provided in 40 C.F.R. Part 370.
25. As of January 31, 2006, anhydrous ammonia was present at the facility at any one time in an amount equal to or greater than the minimum threshold level.
26. During at least one period of time in calendar year 2006, anhydrous ammonia was present at the facility in an amount equal to or greater than the minimum threshold level.
27. During at least one period of time in calendar year 2007, anhydrous ammonia was present at the facility in an amount equal to or greater than the minimum threshold level.
28. During at least one period of time in calendar year 2008, anhydrous ammonia was present at the facility in an amount equal to or greater than the minimum threshold level.
29. OSHA requires Respondent to prepare, or have available, an MSDS for anhydrous ammonia.
30. Section 311 of EPCRA required Respondent to submit to the SERC, LEPC, and fire department with jurisdiction over the facility on or before May 1, 2006, an MSDS for anhydrous ammonia or a list including anhydrous ammonia.

31. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC, and fire department with jurisdiction over the facility, a completed emergency and hazardous chemical inventory form including anhydrous ammonia on or before March 1, 2007, for calendar year 2006.

32. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC, and fire department with jurisdiction over the facility, a completed emergency and hazardous chemical inventory form including anhydrous ammonia on or before March 1, 2008, for calendar year 2007.

33. Section 312 of EPCRA required Respondent to submit to the SERC, LEPC, and fire department with jurisdiction over the facility, a completed emergency and hazardous chemical inventory form including anhydrous ammonia on or before March 1, 2009, for calendar year 2008.

34. At all times relevant to this CAFO, the Citizen-Community Emergency Response Coordinating Council was the SERC for Michigan under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

35. At all times relevant to this CAFO, the Oceana County LEPC was the LEPC for Oceana County, Michigan under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

36. At all times relevant to this CAFO, the Shelby Fire Department was the fire department with jurisdiction over the facility.

#### **Count 1**

37. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

38. As of April 29, 2009, Respondent had not submitted to the SERC an MSDS for anhydrous ammonia or a list showing anhydrous ammonia.

39. Each day Respondent failed to submit to the SERC an MSDS or a list for anhydrous ammonia, by May 1, 2006, constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

**Count 2**

40. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

41. As of April 29, 2009, Respondent had not submitted to the LEPC an MSDS for anhydrous ammonia or a list showing anhydrous ammonia.

42. Each day Respondent failed to submit to the LEPC an MSDS or a list for anhydrous ammonia, by May 1, 2006, constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

**Count 3**

43. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

44. As of April 29, 2009, Respondent had not submitted to the Shelby Fire Department an MSDS for anhydrous ammonia or a list showing anhydrous ammonia.

45. Each day Respondent failed to submit to the Shelby Fire Department an MSDS or a list for anhydrous ammonia by May 1, 2006, constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.



#### Count 4

46. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

47. As of April 29, 2009, Respondent had not submitted to the SERC, the LEPC, or the Shelby Fire Department, a completed Emergency and Hazardous Chemical Inventory Form including anhydrous ammonia for calendar year 2006.

48. Each day Respondent failed to submit to the SERC, the LEPC, and the Shelby Fire Department, a completed Emergency and Hazardous Chemical Inventory Form including anhydrous ammonia by March 1, 2007, for calendar year 2006 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

#### Count 5

49. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

50. As of April 29, 2009, Respondent had not submitted to the SERC, the LEPC, or the Shelby Fire Department, a completed Emergency and Hazardous Chemical Inventory Form including anhydrous ammonia for calendar year 2007.

51. Each day Respondent failed to submit to the SERC, the LEPC, and the Shelby Fire Department, a completed Emergency and Hazardous Chemical Inventory Form including anhydrous ammonia by March 1, 2008, for calendar year 2007 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

**Count 6**

52. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

53. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form including anhydrous ammonia on November 24, 2009, for calendar year 2008.

54. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including anhydrous ammonia by March 1, 2009, for calendar year 2008 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

**Count 7**

55. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

56. Respondent submitted to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including anhydrous ammonia on November 24, 2009, for calendar year 2008.

57. Each day Respondent failed to submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including anhydrous ammonia by March 1, 2009, for calendar year 2008 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

### **Count 8**

58. Complainant incorporates paragraphs 1 through 36 of this CAFO as if set forth in this paragraph.

59. Respondent submitted to the Shelby Fire Department a completed Emergency and Hazardous Chemical Inventory Form including anhydrous ammonia on November 24, 2009, for calendar year 2008.

60. Each day Respondent failed to submit to the Shelby Fire Department a completed Emergency and Hazardous Chemical Inventory Form including anhydrous ammonia by March 1, 2009, for calendar year 2008 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

### **Civil Penalty**

61. Complainant has determined that an appropriate civil penalty to settle this action is \$11,170 for the EPCRA violations. In determining the penalty amount, Complainant considered the nature, circumstances, extent, and gravity of the violations, Respondent's agreement to perform supplemental environmental projects, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violations, and any other matters as justice may require. Complainant also considered U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

62. Within 30 days after the effective date of this CAFO, Respondent must pay an \$11,170 civil penalty for the EPCRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

The check must note the following: N. J. Fox & Sons, Inc., the docket number of this CAFO, and the billing document number 2751144E019.

63. A transmittal letter, stating Respondent's name, the case name, Respondent's complete address, the case docket number, and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

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

James Entzminger, (SC-5J)  
Chemical Emergency Preparedness  
and Prevention Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Steven P. Kaiser, (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

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

65. If Respondent does not timely pay the civil penalty or any stipulated penalties due under paragraph 79, below, 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.

66. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. 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 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

#### **Supplemental Environmental Projects**

67. Respondent must complete the supplemental environmental projects (SEPs) designed to protect the environment or public health by purchasing and installing an anhydrous ammonia detection system, and by purchasing and installing eight SCS-7330 outdoor day/night cameras that will be connected to a dedicated computer for video recording.

68. At its 40 West Second Street, Shelby, Michigan facility, Respondent must complete the SEP as follows:

- a. By June 15, 2011, purchase and install a GCS Ammonia Detection System, set for the CA rooms and engine room, with dual sensors, internet accessible, and dialer included.
- b. By June 15, 2011, purchase and install eight SCS-7330 outdoor day/night cameras that will be connected to a dedicated computer for video recording.

69. Respondent must spend at least \$35,368 to purchase and install the equipment.

70. Respondent must continuously use or operate the equipment installed as the SEP for two years following its installation.

71. Respondent certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

72. U.S. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

73. Respondent must maintain copies of the data for all reports submitted to U.S. EPA according to this CAFO. Respondent must provide the documentation of any data to U.S. EPA within seven days of U.S. EPA's request for the information.

74. Respondent must submit a SEP completion report to U.S. EPA by July 15, 2011.

This report must contain the following information:

- a. Detailed description of the SEP as completed including a listing of the items installed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO; and
- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

75. Respondent must submit all notices and reports required by this CAFO by first class mail to James Entzminger of the Chemical Emergency Preparedness and Prevention Section at the address specified in paragraph 63, above.

76. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

77. Following receipt of the SEP completion report described in paragraph 74, above, U.S. EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 79.

78. If U.S. EPA exercises option b, above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any requirements that U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 79, below.

79. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO, including the schedule in paragraph 68, Respondent must pay a penalty of \$26,526.
- b. If Respondent did not complete the SEP satisfactorily, but U.S. EPA determines that Respondent made good faith and timely efforts to complete the SEP and certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 69, Respondent will not be liable for any stipulated penalty under subparagraph a, above.
- c. If Respondent completed the SEP satisfactorily, but spent less than 90 percent of the amount set forth in paragraph 69, Respondent must pay a penalty of \$8,842.
- d. If Respondent did not submit timely the SEP completion report, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

| <u>Penalty Per Violation Per Day</u> | <u>Period of Violation</u> |
|--------------------------------------|----------------------------|
| \$ 500                               | 1st through 14th day       |
| \$1,000                              | 15th through 30th day      |
| \$1,500                              | 31st day and beyond        |

80. U.S. EPA's determinations of whether Respondent completed the SEP satisfactorily and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

81. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraphs 62, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

82. Any public statement that Respondent makes referring to the SEP must include the following language, "Respondent undertook this project under the settlement of the United States



Environmental Protection Agency's enforcement action against Respondent for violations of Section 311 and 312 of EPCRA."

83. Nothing in this CAFO is intended to nor will be construed to constitute U.S. EPA approval of the equipment or technology installed by Respondent in connection with the SEP under the terms of this CAFO.

84. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

#### **General Provisions**

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

86. This CAFO does not affect the rights of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

87. Respondent certifies that it is complying with Sections 311 and 312(a) of EPCRA, 42 U.S.C. §§ 11021 and 11022(a).

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

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

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

91. Each person signing this consent 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.

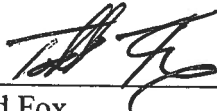
92. Each party agrees to bear its own costs and attorney's fees in this action.

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

**In the Matter of: N. J. Fox & Sons, Inc., Shelby, Michigan**  
**Docket No. \_\_\_\_\_**

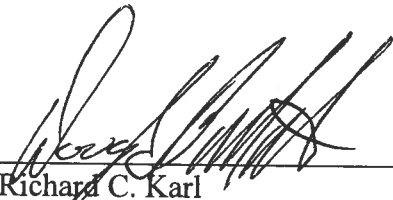
**N. J. Fox & Sons, Inc., Respondent**

June 3, 2011  
Date

  
\_\_\_\_\_  
Todd Fox  
President  
N. J. Fox & Sons, Inc.

**U.S. Environmental Protection Agency, Complainant**

6/21/2011  
Date

  
\_\_\_\_\_  
for Richard C. Karl  
Director  
Superfund Division  
U.S. Environmental Protection Agency  
Region 5


In the Matter of: **N. J. Fox & Sons, Inc., Shelby, Michigan**  
Docket No. **EPCRA-05-2011-0021**

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**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.

6-22-11  
Date

  
\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

**RECEIVED**  
JUN 23 2011  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

In the Matter of: N. J. Fox & Sons, Inc., Shelby, Michigan  
Docket No. EPCRA-05-2011-0021

**Certificate of Service**

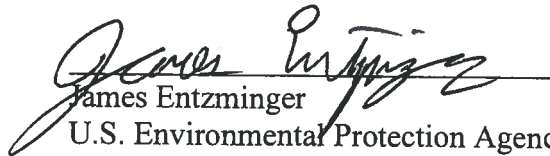
I, James Entzminger, certify that I filed the original and a copy of the Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk, U. S. Environmental Protection Agency, Region 5, delivered a copy of the CAFO by intra-office mail to the Regional Judicial Officer, U.S. Environmental Protection Agency, Region 5, and mailed the second original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to Respondent by placing it in the custody of the United States Postal Service addressed as follows:

Todd Fox  
President  
N. J. Fox & Sons, Inc.  
40 West Second Street  
Shelby, Michigan 49455

Eric R. Fox  
Attorney  
1122 South State Street  
Post Office Box 710  
Hart, Michigan 49420

**RECEIVED**  
JUN 23 2011  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

on the 23 day of June, 2011

  
James Entzminger  
U.S. Environmental Protection Agency  
Region 5