



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

MAR 23 2010

REPLY TO THE ATTENTION OF:

SC-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

William P. Hefner
The Environmental Law Group
133 First Avenue N
Minneapolis, MN 55401

Re: Carley Foundry Inc., Blaine, Minneosta
Consent Agreement and Final Order – Docket No: EPCRA-05-2009-0031

Dear Mr. Hefner:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. EPA has filed the other original CAFO with the Regional Hearing Clerk on MAR 23 2010.

Please have your client pay the EPCRA civil penalty in the amount of \$32,541 in the manner prescribed in paragraphs 9 through 11, and reference their check with the number BD 2751044E013 and docket number EPCRA-05-2009-0031.

The payment is due on APR 22 2010

Please feel free to contact Ruth McNamara at (312) 353-3193 if you have any questions regarding the enclosed documents. Please direct any legal questions to Susan Tennenbaum, Assistant Regional Counsel, at (312) 886-0273. Thank you for your assistance in resolving this matter.

Sincerely yours,

Mark J. Horwitz, Chief
Chemical Emergency Preparedness
and Prevention Section

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MAR 23 2010

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY HEARING CLERK
REGION 5 U.S. ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:) Docket No. EPCRA-052009-0031
)
Carley Foundry Inc.)
8301 Coral Sea Street NE) Proceeding to Assess a Civil Penalty Under
Blaine, Minnesota 55449,) Section 325(c)(1) of the
) Emergency Planning and
Respondent.) Community Right-to-Know Act of 1986
_____)

CONSENT AGREEMENT AND FINAL ORDER

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

2. On September 21, 2009, EPA filed the Complaint in this action against Respondent, Carley Foundry Inc. On November 9, 2009, EPA filed an Amended Complaint against Carley Foundry Inc. The Amended Complaint alleges that Respondent violated Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), by failing to submit to the state emergency response commission (SERC) and the fire department with jurisdiction over the facility (the Blaine Fire Department) the required emergency and hazardous chemical inventory forms for propane (CAS# 74-98-6) and sulfuric acid (CAS# 7664-93-9) for calendar years 2006, 2007, and 2008.

3. On December 11, 2009, Respondent filed an Answer and requested a hearing as provided by 40 C.F.R. § 22.15(c).

Stipulations

4. Carley Foundry Inc. admits the jurisdictional allegations in the Complaint and

neither admits nor denies the factual allegations in the Complaint.

5. 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 Consent Agreement and Final Order (CAFO), and its right to appeal this CAFO.

6. The parties consent to the terms of this CAFO.

7. The parties agree that settling this action without further litigation, upon the terms of this CAFO, is in the public interest.

Civil Penalty

8. In consideration of Respondent's cooperation and early settlement, EPA agrees to mitigate the proposed penalty of \$50,063 to \$32,541.

9. Within 30 days after the effective date of this CAFO, Respondent must pay a \$32,541 civil penalty for the EPCRA violations either by check or electronic funds transfer.

10. Respondent may pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," by regular U.S. postal service to:

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

or by express mail to:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must note the following: In the Matter of Carley Foundry Inc., the docket number of this CAFO and the billing document number 2751044E013

Respondent may also pay the penalty 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
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire should read "D68010727
Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state the following: In the Matter of Carley Foundry Inc., the docket number of this CAFO and the billing document number 2751044E013.

11. If paying by check, a transmittal letter stating Respondent's name, the case title, 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(s) and transmittal letter to:

Regional Hearing Clerk, (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3511

Ruth McNamara, (SC-6J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Susan Tennenbaum, (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

12. This civil penalty is not deductible for federal tax purposes.
13. If Respondent does not timely pay the civil penalty, 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.

14. 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, EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

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

16. This CAFO does not 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.

17. Respondent certifies that it is complying with Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

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

19. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy.

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

21. 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.

22. Each party agrees to bear its own costs and fees, including attorneys' fees, in this action.

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

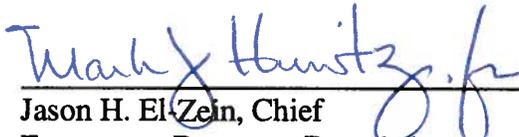
Carley Foundry Inc., Respondent

3-1-10
Date


Mike Carley, Chief Executive Officer

U.S. Environmental Protection Agency, Complainant

03/23/10
Date


Jason H. El-Zein, Chief
Emergency Response Branch 1
Superfund Division

3/23/10
Date


for Richard C. Karl, Director
Superfund Division

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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.

3-23-10
Date

for Juba A. Mathur
Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection Agency
Region 5

U.S. ENVIRONMENTAL
PROTECTION AGENCY

MAR 23 2010

OFFICE OF REGIONAL
COUNSEL

**In the Matter of:
Carley Foundry Inc.
Docket No. EPCRA-05-2009-0031**

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U.S. ENVIRONMENTAL
PROTECTION AGENCY**

Certificate of Service

I, Ruth McNamara, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number EPCRA-05-2009-0031 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, personally served a copy on the Regional Judicial Officer, and mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Carley Foundry Inc.'s Counsel by placing them in the custody of the United States Postal Service addressed as follows:

William F. Hefner
The Environmental Law Group
133 First Avenue N
Minneapolis, MN 55401

on the 23RD day of March, 2010


Ruth McNamara
U.S. Environmental Protection Agency
Region 5