

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX**

**IN THE MATTER OF:**

Tristar Terminals Guam Inc.,

Respondent.

U.S. EPA Docket No.

CAA (112r) – 09 – 2015 – 00 07

CONSENT AGREEMENT AND  
FINAL ORDER PURSUANT TO  
40 CFR SECTIONS 22.13 and 22.18

**CONSENT AGREEMENT**

**A. PRELIMINARY STATEMENT**

1. This is a civil administrative enforcement action instituted pursuant to Section 113(a)(3)(A) and (d) of the Clean Air Act (“CAA”), as amended, 42 U.S.C. § 7413(a)(3)(A) and (d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), 40 CFR Part 22. Complainant is the United States Environmental Protection Agency, Region IX (“EPA”). Respondent is Tristar Terminals Guam, Inc., a domestic corporation organized under the laws of Guam (“Respondent”).
2. Respondent operates a petroleum storage and distribution terminal Route 2A Santa Rita Industrial Drive in Agat, Guam 96928 (the “Agat Terminal” or “Facility”).
3. This Consent Agreement and Final Order Pursuant to 40 CFR Sections 22.13 and 22.18, (“CA/FO”), simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the regulations adopted pursuant thereto.

**B. GENERAL ALLEGATIONS**

4. Respondent is a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
5. The real property and improvements thereto located at the Agat Terminal are a “stationary source” as defined by Sections 111(a)(3) and 112(a)(3) of the CAA, 42 U.S.C. §§ 7411(a)(3) and 7412(a)(3).
6. Pursuant to Section 112(r) of the CAA, EPA established a “threshold quantity” (“TQ”) for each “regulated substance,” above which a facility shall be subject to the requirements of Section 112(r) of CAA. For substances designated as “regulated toxic substances” or “regulated flammable substances,” the TQs are specified at 40 CFR § 68.130.
7. Propane, Chemical Abstract Service Registry (“CAS”) Number 74-98-6, is a “regulated

toxic substance” listed under CAA § 112(r)(3) with a TQ of 10,000 pounds. 40 CFR § 68.130, Table 3.

8. At all times relevant to this CA/FO, the Facility handled, used, or stored more than 10,000 pounds of propane.

9. At all times relevant to this CA/FO, Respondent has been the operator of the Facility.

10. Under Section 112(r)(7) of the CAA and 40 CFR § 68.12(a), the owner or operator of a covered stationary source must submit a Risk Management Plan (“RMP”), as provided in 40 CFR §§ 68.150 - 68.185.

11. Pursuant to 40 CFR § 68.10 and 40 CFR § 68.150(b), the owner or operator of a covered stationary source must comply with the requirements of 40 CFR Part 68 and submit its first RMP no later than the latest of the following dates:

(1) June 21, 1999;

(2) Three years after the date on which a regulated substance is first listed under § 68.130, or

(3) The date on which a regulated substance is first present above a TQ in a process.

12. Pursuant to Section 112(r)(7) of the CAA and 40 CFR § 68.10(d), a covered process is subject to Program 3 if the process does not meet the Program 1 eligibility requirements at 40 CFR § 68.10(b), and the process is subject to the Occupational Safety & Health Administration (“OSHA”) process safety management standard, 29 CFR 1910.119.

13. The Facility is subject to Program 3 requirements because it is subject to the OSHA process safety management standard set forth in 29 CFR § 1910.119.

14. Since the Facility is subject to Program 3 requirements, Respondent is required to implement the prevention requirements set forth in 40 CFR §§ 68.65 through 68.87.

15. Pursuant to Section 112(r)(7) of the CAA, 40 CFR § 68.10, and 40 CFR § 68.36(a), the owner or operator of a stationary source must review and update the offsite consequence analysis at least once every five years.

16. Pursuant to Section 112(r)(7) of the CAA, 40 CFR § 68.10, and 40 CFR § 68.65(d)(2), the owner or operator of a stationary source must document that equipment complies with recognized and generally accepted good engineering practices.

17. Pursuant to Section 112(r)(7) of the CAA, 40 CFR § 68.10, and 40 CFR § 68.67(f), the owner or operator of a stationary source must update and revalidate its process hazard analysis to ensure that it is consistent with the current process.

18. Pursuant to Section 112(r)(7) of the CAA, 40 CFR § 68.10, and 40 CFR § 68.69(a), the owner or operator of a stationary source must develop and implement written operating procedures that provide clear instruction for safely conducting activities involved in the covered process.
19. Pursuant to Section 112(r)(7) of the CAA, 40 CFR § 68.10, and 40 CFR § 68.71(a), the owner or operator of a stationary source must provide training to affected employees in the operating procedures for the covered process.
20. Pursuant to Section 112(r)(7) of the CAA, 40 CFR § 68.10, and 40 CFR § 68.73(d)(2), the owner or operator of a stationary source must perform inspection and testing of process equipment following generally recognized and accepted good engineering practices.
21. Pursuant to Section 112(r)(7) of the CAA, 40 CFR § 68.10, and 40 CFR § 68.75(d), the owner or operator of a stationary source must establish and implement written procedures to manage changes (except for replacements in kind) to process chemicals, technology, equipment, and procedures.
22. Pursuant to Section 112(r)(7) of the CAA, 40 CFR § 68.10, and 40 CFR § 68.79(a), the owner or operator of a stationary source must, every three years, conduct a compliance audit and certify that it has evaluated compliance with Subpart G of Part 68 and that procedures and practices developed are being followed.
23. Pursuant to Section 112(r)(7) of the CAA and 40 CFR § 68.160(b)(7), the owner or operator of a stationary source shall complete and submit to EPA a registration form which must include, among other things, the correct Program level of the process.
24. On October 11, 2012, EPA conducted an inspection of the Facility. The purpose of the inspection was to determine the Facility's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r) and its implementing regulations in 40 CFR Part 68.
25. Based on information collected at the time of inspection and as supplied by Respondent, EPA alleges that Respondent has violated Section 112(r)(7) of CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR Part 68.
26. Respondent is subject to the powers vested in the EPA Administrator by Section 113 of the CAA, 42 U.S.C. § 7413.
27. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes the assessment of a civil penalty for any violation of Section 112(r) of CAA, 42 U.S.C. § 7412(r).



28. The EPA Administrator has delegated to the Regional Administrators the authority to sign consent agreements memorializing settlements of enforcement actions under the CAA. Delegation 7-6-A, dated August 4, 1994. The Regional Administrator, EPA Region IX, in turn, has re-delegated this authority with respect to enforcement of Section 112(r)(1) and (7) of the CAA to the Directors of the Superfund Division as well as the Director of the Enforcement Division. Regional Order R9-7-6-A, dated February 11, 2013.

29. The Department of Justice granted EPA authority to commence this administrative enforcement action pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), although it involves alleged violations that occurred more than one year before the initiation of this proceeding.

### **C. ALLEGED VIOLATIONS**

#### **COUNT I**

##### **(Failure to Review and Update the Offsite Consequence Analyses)**

30. Paragraphs 1 through 29 above are incorporated herein by this reference as if they were set forth here in their entirety.

31. 40 CFR § 68.36 requires that the owner or operator of a Facility subject to the requirements of 40 CFR Part 68 review and update the offsite consequence analyses at least once every five years.

32. Respondent completed an Offsite Consequence Analysis (OCA) in 2005, but had not reviewed or updated that OCA at the time of the inspection.

33. Therefore, EPA alleges that Respondent failed to complete an offsite consequence analysis once every five years, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR § 68.36(a).

#### **COUNT II**

##### **(Failure to Compile Written Process Safety Information)**

34. Paragraphs 1 through 33 above are incorporated herein by this reference as if they were set forth here in their entirety.

35. 40 CFR § 68.65 states that in accordance with the schedule set forth in 40 CFR § 68.67, the owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule. The owner or operator must compile and maintain up-to-date written process safety information related to the regulated substances in the process, information related to the technology of the process, and information pertaining to the equipment in the process.



36. At the time of the inspection, Respondent did not have complete written process safety information for the Facility.

37. Therefore, EPA alleges that Respondent failed to compile written process safety information, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR § 68.65.

**COUNT III**  
**(Failure to Perform Process Hazard Analysis)**

38. Paragraphs 1 through 37 above are incorporated herein by this reference as if they were set forth here in their entirety.

39. 40 CFR § 68.67 requires that the owner or operator perform an initial process hazard analysis (hazard evaluation) on processes covered by 40 CFR Part 68. The process hazard analysis shall be appropriate to the complexity of the process and shall identify, evaluate, and control the hazards involved in the process. In addition, the owner or operator shall establish a system to promptly address the findings of the PHA and recommendations, and the process hazard analysis should be updated and revalidated at least every five years.

40. EPA's investigation revealed that Respondent last reviewed the process hazard analysis for the propane process at the Facility in 2005. Respondent had not updated the analysis at the time of the inspection, which occurred more than 5 years after the 2005 analysis. In addition, Respondent did not have a system to: promptly address the PHA's findings and recommendations; assure that the recommendations are resolved in a timely manner and document what actions are to be taken; complete actions as soon as possible; and a prepare a written schedule of when these actions are to be completed.

41. Therefore, EPA alleges that Respondent failed to meet the requirements for process hazard analysis, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR § 68.67.

**COUNT IV**  
**(Failure to Develop and Implement Adequate Operating Procedures)**

42. Paragraphs 1 through 41 above are incorporated herein by this reference as if they were set forth here in their entirety.

43. 40 CFR § 68.69 requires that the owner or operator develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information, and shall address certain elements as listed in the regulation.

44. At the time of the inspection, Respondent had some basic operating procedures in place, but had not implemented written operating procedures for many of the elements listed in the

regulation.

45. Therefore, EPA alleges that Respondent failed to meet the requirements for operating procedures, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR § 68.69.

**COUNT V**  
**(Failure to Meet Operator Training Requirements)**

46. Paragraphs 1 through 45 above are incorporated herein by this reference as if they were set forth here in their entirety.

47. 40 CFR § 68.71 sets out requirements for initial training, refresher training, and training documentation for employees operating a process.

48. At the time of the inspection, Respondent did not have any record of a formal operator training program.

49. Therefore, EPA alleges that Respondent failed to meet the requirements for operator training, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR § 68.7.

**COUNT VI**  
**(Failure to Meet Mechanical Integrity Requirements)**

50. Paragraphs 1 through 49 above are incorporated herein by this reference as if they were set forth here in their entirety.

51. 40 CFR § 68.73(b) states that the owner or operator shall establish and implement written procedures to maintain the on-going integrity of process equipment for certain process equipment.

52. At the time of the inspection, Respondent had not implemented a mechanical integrity program at the Facility.

53. Therefore, EPA alleges that Respondent failed to meet the requirements for operator training, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR § 68.7.

**COUNT VII**  
**(Failure to Meet Management of Change Requirements)**

54. Paragraphs 1 through 53 above are incorporated herein by this reference as if they were set forth here in their entirety.

55. 40 CFR § 68.75(a) states that the owner or operator shall establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures; and, changes to stationary sources that affect a covered process.

56. At the time of the inspection, Respondent did not have a formal management of change program.

57. Therefore, EPA alleges that Respondent failed to meet the requirements for operator training, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR § 68.75(a).

**COUNT VIII**  
**(Failure to Meet Compliance Audit Requirements)**

58. Paragraphs 1 through 57 above are incorporated herein by this reference as if they were set forth here in their entirety.

59. 40 CFR § 68.79 states that the owner or operator shall certify that they have evaluated compliance with the provisions of this subpart at least every three years to verify that procedures and practices developed under the Program 3 Prevention Program (40 CFR Part 68, Subpart D) are adequate and are being followed, and retain the two most recent compliance reports.

60. At the time of the inspection, Respondent did not have any records of compliance audits.

61. Therefore, EPA alleges that Respondent failed to meet the requirements for operator training, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR § 68.79.

**COUNT IX**  
**(Failure to Meet Employee Participation Requirements)**

62. Paragraphs 1 through 61 above are incorporated herein by this reference as if they were set forth here in their entirety.

63. 40 CFR § 68.83(a) requires that the owner or operator develop a written plan of action regarding the implementation of the employee participation required by 40 CFR § 68.83(b) and (c).

64. At the time of the inspection, Respondent did not have any records of an employee participation program.

65. Therefore, EPA alleges that Respondent failed to meet the requirements for operator training, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR § 68.83(a).

**COUNT X**

**(Failure to Assign the Correct RMP Program Level for the Facility)**

66. Paragraphs 1 through 65 above are incorporated herein by this reference as if they were set forth here in their entirety.
67. 40 C.F.R. § 68.160(b)(7) provides that the owner or operator shall assign the correct program level to its covered process.
68. The Facility is subject to Program 3 requirements because it is subject to the OSHA process safety management standard set forth in 29 CFR § 1910.119.
69. Respondent assigned Program Level 1 to its covered process.
70. Therefore, EPA alleges that Respondent failed to assign the correct program level to its covered process, a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 CFR § 68.160(b)(7).

**D. CIVIL PENALTY**

71. Section 113(d) of the CAA, as adjusted by the Debt Collection Improvement Act of 1996, *see* 40 CFR Part 19, authorizes a civil penalty of up to THIRTY- SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$37,500) per day that a violation of Section 112(r) of the CAA and the implementing regulations continues. *See* Table 1 of 40 CFR § 19.4.
72. Based on the facts alleged herein and upon all the factors which the Complainant considers pursuant to Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and the Combined Enforcement Policy for Section 112(r) of the Clean Air Act (“CEP”), dated June 20, 2012, including the nature, extent, and gravity of the violations, the Respondent’s ability to pay, prior history of violations, degree of culpability, any economic benefit, and such other matters as justice may require, the Complainant proposes that the Respondent be assessed, and Respondent agrees to pay **TWO HUNDRED THOUSAND DOLLARS (\$200,000)** as the civil penalty for the violations alleged herein. The proposed penalty was calculated in accordance with the CAA and the CEP.

**E. ADMISSIONS AND WAIVERS OF RIGHTS**

73. Respondent admits and agrees that EPA has jurisdiction and authority over the subject matter of the action commenced in this CA/FO and over Respondent pursuant to Section 113 of the CAA, 42 U.S.C. § 7413, and 40 CFR Part 22. Respondent consents to and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA’s jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.



74. Respondent neither admits nor denies any allegations of fact or law set forth in Section C of this CA/FO. Respondent hereby waives any rights Respondent may have to a hearing or an appeal on any issue relating to the factual allegations or legal conclusions set forth in the CA/FO, including without limitation a hearing pursuant to Section 113(d)(2) of the CAA, 42 U.S.C. § 7413(d)(2), or judicial review pursuant to Section 113(d)(4) of the CAA, 42 U.S.C. § 7413(4). Respondent hereby consents to the terms of this CA/FO and the issuance of this CA/FO without adjudication.

75. Complainant and Respondent agree that settlement of this matter is in the public interest and that entry of this CA/FO without further litigation is the most appropriate means of resolving this matter.

#### **F. PARTIES BOUND**

76. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns and upon all persons acting under or for Respondent, until such time as the civil penalty required under Section D (and any additional civil penalty required under Section I) and any delays in performance and/or stipulated penalties have been resolved. At such time as those matters are concluded, this CA/FO shall terminate and constitute full and complete settlement of the violations alleged herein.

77. No change in ownership or corporate, partnership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.

78. Until termination of this CA/FO, Respondent shall give notice of this CA/FO to any successor in interest prior to transfer of ownership or operation of the Facility and shall notify EPA within seven (7) days prior to such transfer.

79. The undersigned representative of Respondent hereby certifies that he is fully authorized by Respondent to enter into and execute this CA/FO, and to legally bind Respondent to it.

#### **G. CERTIFICATION OF COMPLIANCE**

80. Upon signing this CA/FO, Respondent certifies to EPA that it has fully complied with the requirements of Section 112(r) of the CAA that formed the basis for the violations alleged in the CA/FO, and the Facility is now in compliance with Section 112(r) of the CAA.

81. The signatory for Respondent certifies under penalty of law that this certification of compliance is based upon true, accurate and complete information, which the signatory can verify personally or regarding which the signatory has inquired of the person or persons directly responsible for gathering the information.

## H. PAYMENT OF CIVIL PENALTY

82. Respondent consents to the assessment of and agrees to pay a civil penalty of **TWO HUNDRED THOUSAND DOLLARS (\$200,000)** in settlement of the civil penalty claims made in this CA/FO.

83. Respondent shall pay the civil penalty within thirty (30) days of the Effective Date of this CA/FO, by sending a certified or cashier's check in the amount of **TWO HUNDRED THOUSAND DOLLARS (\$200,000)**, payable to "U.S. EPA," which shall be mailed as follows:

### Regular Mail

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

### Overnight Mail

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
ATTN Box 979077  
St. Louis, MO 63101  
Contact: Natalie Pearson (314-418-4087)

Alternatively, payment may be made by electronic transfer as provided below:

### Wire Transfers

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:  
Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

### ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving US currency  
PNC Bank  
808 17th Street, NW  
Washington, DC 20074  
Contact – Jesse White (301-887-6548)

ABA = 051036706  
Transaction Code 22 – checking  
Environmental Protection Agency  
Account 31006  
CTX Format

On Line Payment

This payment option can be accessed from the information below:

[www.pay.gov](http://www.pay.gov)

Enter “sfo1.1” in the search field

Open form and complete required fields

A copy of each check, or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, shall be sent with a transmittal letter, indicating Respondent's name, the case title, and docket number, to both:

Jeremy Johnstone  
Emergency Prevention & Preparedness Section (SFD-9-3)  
Superfund Division  
U.S. EPA, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

and

Steven Armsey  
Acting Regional Hearing Clerk (ORC-1)  
U.S. EPA, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

84. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), failure to send the penalty so that it is received by the due date will result in imposition of interest from the effective date of this CA/FO at the current interest rate published by the U.S. Treasury, as described at 40 CFR §13.11. In addition, a twelve percent (12%) per annum penalty will be applied on any principal amount not paid within ninety (90) days of the due date.

85. The penalties specified in this CA/FO shall represent civil penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

## **I. DELAY IN PERFORMANCE / STIPULATED PENALTIES**

86. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as set forth below. Compliance by Respondent shall include completion of any activity under this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.

87. For failure to submit a payment to EPA by the time required in this CA/FO: up to FIVE HUNDRED DOLLARS (\$500) per day for the first to fifteenth day of delay, up to ONE THOUSAND DOLLARS (\$1,000) per day for the sixteenth to thirtieth day of delay, and up to FIVE THOUSAND DOLLARS (\$5,000) per day for each day of delay thereafter.

88. The determination of whether Respondent has satisfactorily complied with the terms of this CA/FO and the determination of whether Respondent has made a good faith, timely effort to complete the tasks required by this CA/FO, are within the sole discretion of the Division Director, Superfund Division, EPA Region IX. The decision of the Division Director, Superfund Division, EPA Region IX is not reviewable in any forum.

89. Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day until performance is complete. Respondent shall pay stipulated penalties within fifteen (15) days of receipt of a written demand by Complainant for such penalties. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of penalties in Section H of this CA/FO.

90. If a stipulated penalty is not paid in full, interest shall begin to accrue on the unpaid balance at the end of the fifteen-day period at the current rate published by the United States Treasury, as described at 40 CFR §13.11. Complainant reserves the right to take any additional action, including but not limited to, the imposition of civil penalties, to enforce compliance with this CA/FO or with the CAA and its implementing regulations.

91. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.

92. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

## **J. RESERVATION OF RIGHTS**

93. EPA expressly reserves all rights and defenses that it may have.

94. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain

to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under the CAA or any other statutory, regulatory or common law enforcement authority of the United States. This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under the CAA or any other statutory, regulatory or common law enforcement authority of the United States.

95. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with the CAA or any other applicable local, state or federal laws and regulations.

96. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as it relates to those matters resolved by this CA/FO.

97. EPA reserves its right to seek reimbursement from Respondent for such additional costs as may be incurred by the United States. Notwithstanding compliance with the terms of this CA/FO, Respondent is not released from liability, if any, for the costs of any response actions taken by EPA.

#### **K. MISCELLANEOUS**

98. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.

99. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

100. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.




101. In accordance with 40 CFR §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the Final Order contained in this CA/FO, having been approved and issued by either the Regional Judicial Officer, is filed.

**IT IS SO AGREED.**

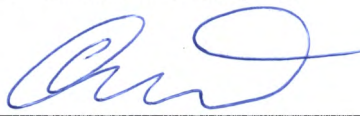
Sep 18, 2015

Date

  
Name: K. K. VIKRAMAN  
Title: GENERAL MANAGER  
Tristar Terminals Guam, Inc.

Sep 28, 2015

Date

  
Enrique Manzanilla  
Director  
Superfund Division  
United States Environmental Protection Agency  
Region IX

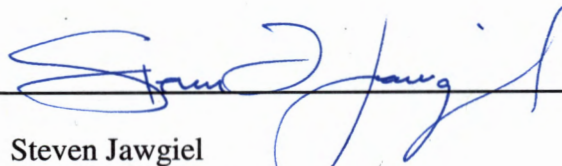
**FINAL ORDER**

**IT IS HEREBY ORDERED** that this Consent Agreement and Final Order (“CA/FO”) (Docket No. CAA (112r) – 9 – 2015 – 0007) be entered and that Tristar Terminals Guam, Inc. pay a civil penalty of **TWO HUNDRED THOUSAND DOLLARS (\$200,000)** payable to “Treasurer, United States of America,” in the manner and form specified in Section H of this CA/FO within thirty (30) days after the Effective Date, and complete any and all tasks required by this CA/FO.

**THIS FINAL ORDER SHALL BE EFFECTIVE UPON FILING.**

09/29/15

Date

A handwritten signature in blue ink, appearing to read "Steven Jawgiel", is written over a horizontal line.

Steven Jawgiel  
Regional Judicial Officer  
United States Environmental Protection Agency,  
Region IX

**CERTIFICATE OF SERVICE**

Docket No. CAA(112r)-09-2015-00 07

I hereby certify that the original copy of the foregoing CAFOs with the Docket numbers referenced above, have been filed with the Region 9 Hearing Clerk and that copies were sent by certified mail, return receipt requested, to:

K.K. Vikraman  
General Manager  
Tristar Terminals Guam, Inc.  
P.O. Box 8210  
Agat, Guam 96928

**CERTIFIED MAIL NUMBER:** 7015 0640 0007 0638 0041

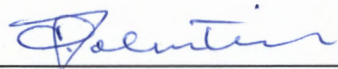
Additional copies were hand-delivered to the following U.S. EPA case attorney:

Rebecca Sugerman, Esq.  
Office of Regional Counsel  
U.S. EPA, Region IX  
75 Hawthorne St.  
San Francisco, CA 94105

9/30/15

Date

FOR:



Steven Armsey  
Acting Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105