



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

APR 14 2009

REPLY TO THE ATTENTION OF:

SC-6J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Andrew H. Perellis
Seyfarth Shaw LLP
Suite 2400
131 South Dearborn Street
Chicago, IL 60603-5577

Re: Pennant Foods Company, Northlake, Illinois
Consent Agreement and Final Order – Docket Nos: EPCRA-05-2009,0005,
CERCLA-05-2009-0001, MM-05-2009-0002

Dear Mr. Shaw:

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 April 14, 2009.


Please pay the CERCLA civil penalty in the amount of \$ 13,335 in the manner prescribed in paragraphs 10 and 12, and reference your check with the number BD **2750930B008** and docket number(s) EPCRA-05-2009,0005, CERCLA-05-2009-0001, and MM-05-2009-0002.

Please pay the EPCRA civil penalty in the amount of \$ 26,665 in the manner prescribed in paragraphs 11 and 12, and reference your check with the number BD **2750944E018** and docket numbers EPCRA-05-2009,0005, CERCLA-05-2009-0001, and MM-05-2009-0002.

Your payments are due on May 14, 2009 (within thirty-calendar days of the filing date).

Please feel free to contact Ginger Jager at (312) 886-0767 if you have any questions regarding the enclosed documents. Please direct any legal questions to Jeffery Trevino, Assistant Regional Counsel, at (312) 886-6729. Thank you for your assistance in resolving this matter.

Sincerely yours,


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

Enclosure

cc: Regional Hearing Clerk
U.S. EPA Region 5

Jeffery Trevino
Office of Regional Counsel
U.S. EPA Region 5

Jon England, IL SERC (w/enclosure)

Judge Susan L. Biro (w/enclosure)
Administrative Law Judge
U.S. EPA, Headquarters

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US EPA REGION V

2009 APR 15 AM 11:28

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
PENNANT FOODS COMPANY,) Docket Nos. EPCRA- 05-2009-0005
) CERCLA- 05-2009-0001
) MM- 05-2009-0002
)
Respondent)

CONSENT AGREEMENT AND FINAL ORDER

CONSENT AGREEMENT

1. Complainant, the Chief, Emergency Response Branch 1, Superfund Division, Region 5, United States Environmental Protection Agency (U.S. EPA), filed this civil administrative action pursuant to Section 109(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609(b), and Section 325(b)(2) of the Emergency Planning Community Right-To-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(b)(2).

2. On October 29, 2008, U.S. EPA filed the Complaint for this action against Respondent Pennant Foods Company, 111 North Northwest Avenue, Northlake, Illinois, 60164. The Complaint alleged that on Monday, June 27, 2005, Respondent failed to notify timely the National Response Center, the State Emergency Planning Commission, and the Local Emergency Planning Committee, that it emitted into the air approximately 3,000 pounds of anhydrous ammonia, in violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and Section 304(a) of EPCRA, 42 U.S.C. §11004(a).

3. On or about November 21, 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).

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 \$40,000.00 payable as follows.

10. Within thirty days of the effective date of this CAFO, Respondent must pay a \$13,335.00 civil penalty for its alleged violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a). Respondent must pay the penalty by sending a cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

U.S. EPA
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
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 2750930B008.

11. Within thirty days of the effective date of this CAFO, Respondent must pay a \$26,665.00 civil penalty for its alleged violations of Section 304(a) of EPCRA, 42 U.S.C. §11004(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 2750944E018.

12. 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

13. This civil penalty is not deductible for federal tax purposes.
14. 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.
15. 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
16. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint.
17. 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.

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 U.S. EPA's Enforcement Response Policy for Section 325 of EPCRA.

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 this consent agreement 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 attorney's fees, for this action.

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

In the Matter of: Pennant Foods Company, Northlake, Illinois.

Docket Nos. EPCRA- 05-2005-0018


CERCLA- 05-2009-0001

MM- 05-2009-0002

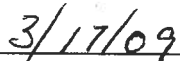
Consent Agreement and Final Order.

RESPONDENT

Pennant Foods Company
111 North Northwest Avenue
Northlake, Illinois 60164



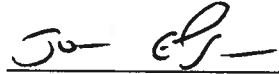
Chuck McDonough, CFO



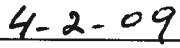
Date

COMPLAINANT

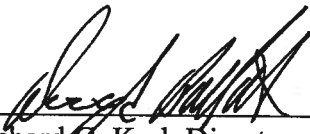
Superfund Division
Region 5
United States Environmental Protection Agency



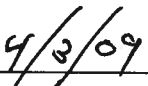
Jason H. El-Zein, Chief
Emergency Response Branch 1
Superfund Division



Date



Richard C. Karl, Director
Superfund Division



Date

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Docket Nos. EPCRA- 05-2005-0018

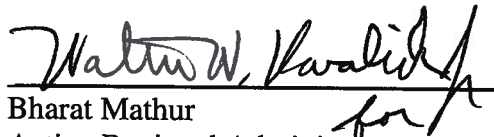
CERCLA- 05-2009-0001

MM- 05-2009-0002

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

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In the Matter of: Pennant Foods Company, Northlake, Illinois.

Docket Nos. EPCRA- 05-2005-0018

CERCLA- 05-2009-0001

MM- 05-2009-0002

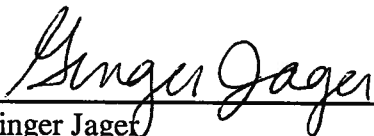
Consent Agreement and Final Order.

CERTIFICATE OF SERVICE

I, Ginger Jager, certify on the 14 day of April, 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

Andrew H. Perellis
Seyfarth Shaw LLP
Suite 2400
131 South Dearborn Street
Chicago, IL 60603-5577



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

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