

2012 FEB -2 AM 10: 25

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
901 NORTH FIFTH STREET  
KANSAS CITY, KANSAS 66101

BEFORE THE ADMINISTRATOR

IN THE MATTER OF	)	Docket No. CAA-07-2011-0013
	)	
DAVIS PAINT COMPANY, INC.	)	
	)	
NORTH KANSAS CITY, MISSOURI	)	CONSENT AGREEMENT AND
	)	FINAL ORDER
	)	
	)	
Respondents	)	

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CONSENT AGREEMENT AND FINAL ORDER

This administrative proceeding for the assessment of civil penalties was initiated on or about June 16, 2011, pursuant to Section 113(d) of the Clean Air Act ("CAA" or the "Act"), 42 U.S.C. § 7413(d) when the U.S. Environmental Protection Agency (Complainant or EPA) issued to Davis Paint Company, Inc., North Kansas City, Missouri, (Respondent) a Complaint, Notice of Proposed Penalty, and Notice of Opportunity for Hearing (Complaint).

The Complaint alleged the Respondent violated Section 112 of the CAA, 42 U.S.C. § 7412 by failing to comply with 40 C.F.R. Part 63, Subpart HHHHH.

The Complaint proposed a penalty of One Hundred and Fifteen Thousand Six Hundred and Seventy-Five Dollars and No Cents (\$115,675.00). The Complainant and Respondent subsequently entered into the alternative dispute resolution process in an attempt to settle the allegations in the Complaint. Respondent has documented to Complainant that it has no ability to pay the proposed penalty.

This Consent Agreement and Final Order (CAFO) is the result of the above negotiations and resolves all issues relating to the administrative claims arising from the allegations in the Complaint.

## CONSENT AGREEMENT

1. Respondent and EPA agree to the terms of this CAFO and Respondent agrees to comply with the terms of the Final Order portion of this CAFO.
2. For purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this CAFO.
3. Respondent neither admits nor denies the factual allegations set forth in the Complaint.
4. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above and its right to appeal the Final Order portion of this CAFO.
5. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees incurred as a result of this action.
6. This CAFO addresses all civil and administrative claims for the CAA violations alleged in the Complaint, existing through the effective date of this CAFO. Complainant reserves the right to take enforcement action with respect to any other violations of the CAA or other applicable law.
7. Respondent certifies by signing of this CAFO that to the best of its knowledge, Respondent's facility is in compliance with the CAA, 42 U.S.C. § 7401, et. seq.
8. The effect of settlement described in Paragraph 6 is conditional upon the accuracy of the Respondent's representations to EPA, as memorialized in Paragraph 7, above, of this CAFO.
9. The undersigned representative of Respondents certifies that he or she is fully authorized to enter the terms and conditions of this CAFO and to execute and legally bind Respondents to it.
10. Nothing contained in the Final Order portion of this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.
11. Respondent consents to the issuance of a Final Order as set forth in paragraph 1 of the Final Order.

**FINAL ORDER**

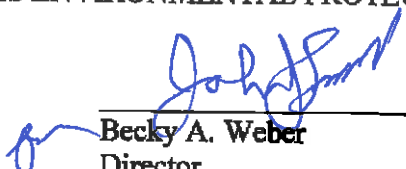
**Payment Procedures**

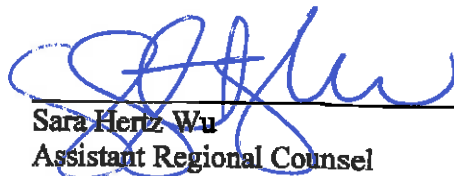
Pursuant to the provisions of the CAA, 42 U.S.C. § 7401 et. seq., and based upon the information set forth in this Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondents shall pay a civil penalty of zero dollars (\$0) in settlement of this action due to Respondent's documented inability to pay the proposed penalty.
2. Respondent and Complainant shall bear their respective attorneys' fees.
3. This Final Order portion of this CAFO shall apply to and be binding upon Respondents and Respondents' agents, successors and/or assigns.

COMPLAINANT: UNITED STATES ENVIRONMENTAL PROTECTION AGENCY


1/30/12  
Date

  
Becky A. Weber  
Director  
Air and Waste Management Division

  
Sara Herz Wu  
Assistant Regional Counsel

RESPONDENT: DAVIS PAINT COMPANY, INC.

1/29/12  
Date

  
Signature

Jeff Lee  
Printed Name

Exec. V. P.  
Title

**IT IS SO ORDERED.** This Order shall become effective immediately.

Feb. 2, 2012  
Date

Karina Borromeo  
KARINA BORROMEO  
Regional Judicial Officer

IN THE MATTER OF Davis Paint Company, Inc., Respondent  
Docket No. CAA-07-2011-0013

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Sara Hertz Wu  
Assistant Regional Counsel  
Region 7  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Lindsay L. Wood  
Law Offices of Lindsay L. Wood  
P.O. Box 2512  
Lee's Summit, Missouri 64063

Copy by Facsimile and  
First Class Pouch Mail to:

The Honorable Susan L. Biro  
Chief Administrative Law Judge  
U. S. Environmental Protection Agency  
Office of Administrative Law Judges  
1200 Pennsylvania Avenue, NW  
Mail Code 1900L  
Washington, D. C. 20005

Dated:

2/3/12



Kathy Robinson  
Hearing Clerk, Region 7