



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

APR 19 2012

CERTIFIED MAIL—RETURN RECEIPT REQUESTED: 7005 1820 0003 7453 9776

Mr. Daniel Gregory
Executive Director, University Services
Concordia University Texas
11400 Concordia University Drive
Austin, TX 78726

Re: Concordia University Texas-Self-Disclosure of Violations
EPA Docket Number: CWA-06-2012-1738
Unpermitted Facility Number: TXU010942
Self Disclosure Processing ID Number: P000028
EPA Region 6 Disclosure Report Number: 1607
Original Disclosure Date: September 2, 2010

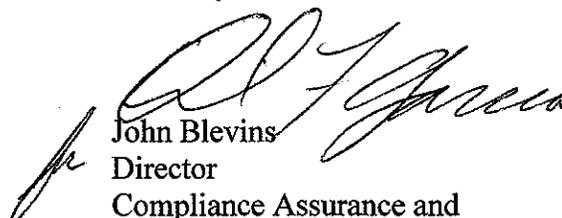
Dear Mr. Gregory:

Enclosed is a Notice of Determination (NOD) issued to Concordia University Texas (Concordia University), by the Environmental Protection Agency (EPA), under EPA's "Self-Disclosure Policy" (April 11, 2000). This NOD is based on the voluntary disclosure made to EPA on September 2, 2010 and the final compliance report dated February 11, 2011.

Based upon the written information submitted by Concordia University, EPA has determined that Concordia University has met all nine conditions of EPA's Self-Disclosure Policy and qualifies for 100% mitigation of the gravity-based penalty. EPA has determined that the economic benefit gained as a result of non-compliance is insignificant; therefore, at its discretion, EPA has waived the collection thereof.

Please note that this matter has been designated with the Docket Number referenced above to document resolution of the disclosed violations in EPA's Compliance Assurance and Enforcement program. Please contact Russell Murdock at 214-665-3189 with any questions.

Sincerely,


John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

Re: Concordia University Texas 2
Notice of Determination

cc:

Mr. Troy Bataille
Halloran & Sage LLP
One Goodwin Square
225 Asylum Street
Hartford, CT 06103

Ms. Lauren Smitherman
Enforcement Coordinator
Texas Commission on Environmental Quality
TCEQ/MC149
P.O. Box 13087
Austin, TX 78711-3087

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
2012 APR 20 AM 10:08
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:

Concordia University Texas

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DOCKET NO. CWA-06-2012-1738

NOTICE OF DETERMINATION

Pursuant to the "Revised Final Policy on Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations" (65 *Fed. Reg.* 19618, April 11, 2000) ("Audit Policy"), the United States Environmental Protection Agency, Region 6 ("EPA") hereby issues this Notice of Determination to Concordia University Texas, in Austin, Texas ("Concordia University") regarding Concordia University's disclosed violations of the Clean Water Act ("CWA"), 33 U.S.C. § 1251, *et seq.*, the Clean Air Act ("CAA"), 42 U.S.C. § 7401 *et seq.*, the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 *et seq.*, the Emergency Planning and Community Right-to-Know Act ("EPCRA") 42 U.S.C. § 11001 *et seq.*

I. SELF-DISCLOSURE POLICY

EPA issued the Self-Disclosure Policy to encourage regulated entities to voluntarily discover, disclose, correct, and prevent violations of Federal environmental requirements. As an incentive for regulated entities to participate in the Self-Disclosure Policy, EPA may substantially reduce or eliminate the gravity component of the civil

penalty where the conditions specified in the Self-Disclosure Policy are met. EPA retains the full discretion, however, to recover any economic benefit gained as a result of the noncompliance. Where the disclosing party establishes that it has satisfied all nine conditions listed below, EPA will not seek gravity-based penalties for the violations of federal environmental requirements.

The conditions are:

- (1) Discovery of the violation(s) through an environmental audit or due diligence;
- (2) Voluntary disclosure;
- (3) Prompt disclosure;
- (4) Discovery and disclosure independent of government or third party Plaintiff;
- (5) Correction and remediation;
- (6) Prevent recurrence;
- (7) No repeat violations;
- (8) Other violations excluded; and
- (9) Cooperation.

II. FINDINGS OF FACT

On September 2, 2010, Concordia University submitted a Self-Disclosure to EPA and supplemented it with its final compliance report on February 11, 2011. Concordia University sent these disclosures regarding possible violations of the CWA and associated National Pollutant Discharge Elimination System ("NPDES") program, the CAA, RCRA, EPCRA, and the regulations promulgated thereunder.

At all times relevant to the violations cited herein, Concordia University operated a school facility known as "Concordia University" located at 1140 Concordia University Drive, in Austin, Travis County, Texas ("facility").

From April 7-8, 2010 a peer audit team conducted an audit of Concordia University's facility and procedures to identify areas of environmental non-compliance. The Final Audit Report was delivered to Concordia University on August 12, 2010. Concordia University disclosed to EPA the following violations, discovered by the auditors, which occurred at the facility on or about August 2006 through August 12, 2010:

- 1) Concordia University failed to adequately document refrigerant additions; specifically, Concordia University failed to document the date and type of service as well as the quantity of refrigerant added, in violation of 40 C.F.R. § 82.166;
- 2) Concordia University claimed multiple Permits By Rules ("PBRs") without maintaining sufficient records associated with the PBRs that would be necessary to prove its qualification for the PBRs in violation of 40 C.F.R. Part 52, Subpart SS;
- 3) Concordia University discharged trace amounts of both hazardous and non-hazardous chemicals down the drain into a Publicly-Owned Treatment Works ("POTW"), in violation of 40 C.F.R. § 403.5;
- 4) Concordia University failed to develop and implement a Spill Prevention, Control and Countermeasure ("SPCC") Plan or develop an inspection schedule, in violation of 40 C.F.R. §§ 112.7, 112.7(e);
- 5) Concordia University failed to train oil handling personnel in the contents of a campus-wide SPCC Plan, in violation of 40 C.F.R. § 112.7(f);

- 6) Concordia University's facility contained a 250-gallon bulk container of used kitchen grease without providing a secondary means of containment, in violation of 40 C.F.R. § 112.8(c)(2);
- 7) Concordia University maintained bioxide, a hazardous substance, in a quantity exceeding the threshold planning quantity and yet failed to include it on Concordia University's Tier II Report, in violation of 40 C.F.R. §§ 370.20, 370.40-45;
- 8) Concordia University maintained hazardous substances in excess of their threshold quantities, yet failed to submit the corresponding material safety data sheet to the Local Emergency Planning Committee ("LEPC"), the State Emergency Response Commission ("SERC"), and local fire department, in violation of 40 C.F.R. §§ 370.30, 370.33;
- 9) Concordia University failed to properly label an unlabeled container of used oil, in violation of 40 C.F.R. §§ 279.22(a), 279.22(c);
- 10) Concordia University failed to identify and classify certain obsolete chemicals it had constructively abandoned, as either hazardous or non-hazardous, in violation of 40 C.F.R. § 262.11;
- 11) Concordia University failed to classify sediment wastes as hazardous or non-hazardous prior to their disposal, in violation of 40 C.F.R. § 262.11;
- 12) Concordia University failed to possess the proper labeling and documentation necessary to demonstrate the length of time its universal waste batteries had been accumulating on-site, in violation of 40 C.F.R. § 273.15(c);

13) Concordia University failed to inform its employees who handle or have responsibility for managing universal waste of the proper handling and emergency procedures for the types of universal waste handled at the facility, in violation of 40 C.F.R. § 273.16.

In its February 11, 2011 final compliance report, Concordia University described and explained how it had met all nine conditions under the EPA's Self-Disclosure Policy.

III. RESERVATION OF RIGHTS

If, and to the extent that, any information or statement provided by Concordia University upon which this Notice of Determination is based, was false or inaccurate at the time such information or statement was provided to EPA, EPA reserves the right to revoke this Notice of Determination and, thereby, render such Notice of Determination null and void. Such revocation shall be in writing and shall become effective upon receipt by the Disclosing Party.

If, and to the extent that, any information or statement provided by the Disclosing Party upon which any civil penalty mitigation granted herein was based, was false or inaccurate at the time such information or statement was provided to EPA, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. Such revocation shall be in writing and shall become effective upon receipt by the Disclosing Party.

Nothing herein shall be construed to limit the authority of EPA and/or the United States to undertake action against any person, including the Disclosing Party, in response to any condition which EPA or the United States determines may present an imminent and substantial endangerment to the public health, welfare or the environment.

Furthermore, issuance of this Notice of Determination does not constitute a waiver by EPA and/or the United States of its right to bring an enforcement action, either civil or criminal, against Concordia University for any other violation of any federal or state statute, regulation, or permit.

In issuing this Notice of Determination, EPA seeks to promote self-auditing, and expects the Concordia University to be in full compliance with all environmental requirements and to continue the internal procedures necessary to prevent recurrence of violations of environmental requirements.

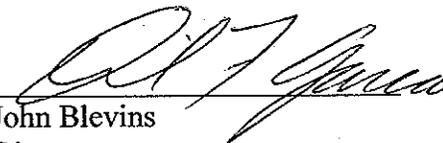
IV. EPA FINAL DETERMINATION

EPA has reviewed Concordia University's disclosure. Based upon Concordia University's Self-Disclosure and EPA's review of the disclosed violations, EPA finds that Concordia University has satisfied all nine conditions of the Self-Disclosure Policy and qualifies for 100% mitigation of the gravity-based penalty regarding the disclosed violations in the September 2, 2010 disclosure and the February 11, 2011 final compliance report. Therefore, EPA will not assess any gravity-based penalty for the disclosed violations.

EPA further finds that the economic benefit derived by Concordia University's non-compliance is *de minimis*. As a result, EPA will not assess any penalty based on Concordia University's economic benefit from non-compliance.

In making this determination and consistent with the purposes of the Self-Disclosure Policy, EPA expects Concordia University to institute, on a continuing and facility-wide basis, the internal policies and procedures necessary to prevent a recurrence of violations of environmental requirements.

Dated: 4/19/12

By: 
John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I hereby certify that on the 20 day of April, 2012, the original of the foregoing Notice of Determination (NOD) was hand delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6RC-D), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy of the NOD was delivered to the following by the method indicated:

U.S. Postal Service Certified Mail:

Mr. Daniel Gregory
Executive Director, University Services
Concordia University Texas
11400 Concordia University Drive
Austin, TX 78726

U.S. Postal Service First-Class Mail:

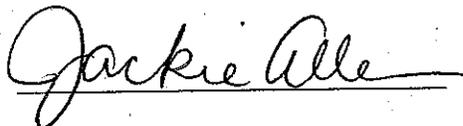
Mr. Troy Bataille
Halloran & Sage LLP
One Goodwin Square
225 Asylum Street
Hartford, CT 06103

Ms. Lauren Smitherman
Enforcement Coordinator
Texas Commission on Environmental Quality
TCEQ/MC149
P.O. Box 13087
Austin, TX 78711-3087

Hand-delivered:

Mr. Russell Murdock (6RC-EW)
Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 6,
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

APR 20 2012


Jackie Allen