

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7

901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

04 MAY 13 PM 4:18
ENVIRONMENTAL PROTECTION
AGENCY REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF

MFA Exchange of Chamois-Morrison,)
)
) Docket Nos.
and) EPCRA-07-2003-0324
) CERCLA-07-2003-0325
MFA Inc.) CAA-07-2004-0168
)
)
) Chamois, Missouri
)
Respondents)

CONSENT AGREEMENT AND FINAL ORDER

On or about September 30, 2003, pursuant to Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9609, and Section 325 of the Emergency Planning and Community Right to Know Act (EPCRA), 42 U.S.C. § 11045, the United States Environmental Protection Agency (Complainant or EPA) issued to MFA Exchange of Chamois, Missouri (Respondent MFA Exchange) a Complaint and Notice of Opportunity for Hearing alleging violations of CERCLA and EPCRA at MFA Exchange's Chamois, Missouri, facility (Docket No. EPCRA-07-2003-0324, and No. CERCLA-07-2003-0325).

On or about March 30, 2004, pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), EPA issued to Respondents MFA Exchange and MFA Inc. (Respondent MFA Inc.) a Complaint and Notice of Opportunity for Hearing alleging violations of Section 112(r) of

the Clean Air Act (CAA), 42 U.S.C. § 7412(r), and the requirements for Risk Management Plans set forth 40 C.F.R. §§ 68.48(a), (b), and (c); 68.50(c); and 68.60(b) and (c). (Docket No. CAA-07-2004-0168).

MFA Exchange and MFA Inc. jointly own and/or operate the Chamois, Missouri, facility, and for purposes of this Consent Agreement and Final Order are hereafter referred to as Respondents.

CONSENT AGREEMENT

1. For purposes of this proceeding, Respondents admit the jurisdictional allegations set forth in the Complaints. Respondents neither admit nor deny the factual allegations set forth in the Complaints.

2. Respondents waive their right to a judicial or administrative hearing on any issue of fact or law set forth in the Complaints.

3. Respondents and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

4. Respondents certify by the signing of this Consent Agreement and Final Order that to the best of Respondents' knowledge, Respondents' Chamois, Missouri, facility is presently in compliance with all requirements of Section 103 of CERCLA, 42 U.S.C. § 9603 (and all implementing regulations, 40 C.F.R. Part 302); Section 304 of EPCRA, 42 U.S.C. § 11004 (and all implementing regulations, 40 C.F.R. Part 355), and Section 112(r) of the CAA, 42 U.S.C. § 7412(r) (and all implementing regulations, 40 C.F.R. Part 68).

5. Respondents consent to the issuance of the Final Order hereinafter recited and consent to the payment of the civil penalty as set forth below.

6. Respondents understand that the failure to pay any portion of the civil penalty assessed herein in accordance with the provisions of this Order may result in commencement of a civil action in Federal District Court to recover the total penalty, together with interest thereon at the applicable statutory rate.

7. Although not required by CERCLA, EPCRA, the CAA, or any other federal, state or local law, in settlement of this matter, Respondents agree to undertake the following environmentally beneficial projects that will benefit the communities where Respondents' Chamois, Glasgow, and Laddonia, Missouri, facilities are located in order to assist the communities in emergency response. Specifically, Respondents agree to purchase Gas Detector Units and accessories for the Chamois, Glasgow, and Laddonia Fire Departments. These Gas Detector units will aid these fire departments in emergency response and are, thus, acceptable as a Supplemental Environmental Project (SEP) as described in EPA's Supplemental Environmental Projects Policy (May 1998). Respondents have coordinated with the Chamois, Glasgow and Laddonia Fire Departments to ensure their need for the Gas Detector Units.

8. Respondents agree to pay at least \$7,000 by June 1, 2004, to purchase Gas Detector Units, and accessories. No later than July 1, 2004, Respondents agree to submit copies of invoices or other documentation to EPA to substantiate these expenditures. Respondents will also provide documentation to EPA showing receipt by the fire departments of the Gas Detector Units, at which time Respondents' obligations under Paragraph 7, above, shall be satisfied. In the event that Respondents fail to expend \$7,000 by June 1, 2004, to implement these projects, Respondents agree to pay a stipulated penalty to EPA. Respondents shall be liable for a stipulated penalty of two dollars (\$2) for every one dollar (\$1) under \$7,000 that Respondents

fail to expend to implement this project.

9. This Consent Agreement may be signed by EPA and Respondents in part and counterpart. This Consent Agreement and Final Order may be executed by EPA upon receipt from Respondents of a telefaxed signature page. Upon its execution, a copy of the executed agreement shall be sent by telefax and certified mail to Respondents.

10. Respondents agree that the original Consent Agreement and Final Order signed by Respondent shall be transmitted by overnight mail to Howard C. Bunch, Assistant Regional Counsel, U.S. Environmental Protection Agency, Region VII, 901 N. 5th St., Kansas City, Kansas 66101. Upon EPA's receipt of the signed original from Respondents, the original signature page signed by Respondents shall be filed with the previously executed copy with the Regional Hearing Clerk.

FINAL ORDER

Pursuant to the provisions of CERCLA (42 U.S.C. § 9601, et seq.), EPCRA (42 U.S.C. § 11001, et seq.), and 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 Thirty-Three Thousand Dollars (\$33,000), within thirty days of entry of this Final Order. Payment shall be by two cashier's or certified checks, as specified below.

2. The first check shall be for \$22,000 and shall be made payable to the "United States Treasury" and remitted to:

EPA-Region VII
Attn: Regional Hearing Clerk
c/o Mellon Bank
Post Office Box 360748M
Pittsburgh, Pennsylvania 15251.

3. The second check shall be for \$11,000 and shall be made payable to "EPA Hazardous Substance Superfund" and remitted to:

EPA - Region 7
Attn.: Superfund Accounting
c/o Mellon Bank
P.O. Box 360748M
Pittsburgh, Pennsylvania 15251.

4. A copy of each check should be sent to:

Howard C. Bunch, Sr. Assistant Regional Counsel
EPA-Region VII
Office of Regional Counsel
901 North Fifth Street
Kansas City, Kansas 66101.


5. Each check shall reference the Docket Nos. of the Complaints.

6. Respondents and Complainant shall bear their own costs and attorney's fees incurred as a result of this matter.

7. Respondents shall implement and complete the environmentally beneficial projects set forth in Paragraph 7 of the Consent Agreement. In the event that Respondents do not complete the environmentally beneficial projects set forth in Paragraph 7 of the Consent Agreement, Respondents shall pay stipulated penalties as set forth in Paragraph 8 of the Consent Agreement. Such stipulated penalties shall be immediately due and payable upon written notice to Respondents by EPA.

FOR:

COMPLAINANT:
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By 
Howard C. Bunch
Senior Assistant Regional Counsel

Date 5/6/04

Consent Agreement and Final Order, Signatures, continued.
(Docket Nos. EPCRA-07-2003-0324, CERCLA-07-2003-0325
and CAA-07-2004-0146)

0168 jem

FOR:

RESPONDENT:

MFA EXCHANGE OF CHAMOIS-MISSOURI

By

Larry Backes

Title

Manager

Date

4/29/04

FOR:

RESPONDENT:

MFA INC.

By _____

Title _____

Date _____

Consent Agreement and Final Order, Signatures, continued.
(Docket Nos. EPCRA-07-2003-0324, CERCLA-07-2003-0325
and CAA-07-2004-~~0146~~)

0168 jenn

FOR:

RESPONDENT:

MFA EXCHANGE OF CHAMOIS-MISSOURI

By _____

Title _____

Date _____

FOR:

RESPONDENT:

MFA INC.

By *Billy D Struck*

Title *Senior Vice President*

Date *4/29/04*

Consent Agreement and Final Order, Signatures, continued.
(Docket Nos. EPCRA-07-2003-0324, CERCLA-07-2003-0325
and CAA-07-2004-0168)

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



James B. Gulliford
Regional Administrator

IN THE MATTER OF MFA Exchange of Chamois-Morrison and MFA Inc., Respondents
Docket Nos. EPCRA-07-2003-0324; CERCLA-07-2003-0325; and CAA-07-2004-0168

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Howard C. Bunch
Senior Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

William J. Denton, Esq.
Jessica E. Merrigan, Esq.
Lathrop & Gage L.C.
2345 Grand Boulevard, Suite 2800
Kansas City, Missouri 64108

Copy by Facsimile and
First Class Pouch Mail to:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

Dated: 5/14/04



Kathy Robinson
Regional Hearing Clerk