UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region IX
75 Hawthorne St
San Francisco, CA 94105

DEC 1 3 2019

ENFORCEMENT AND COMPLIANCE
ASSURANCE DIVISION

CERTIFIED MAIL 7019 0700 0001 7652 8698
RETURN RECEIPT REQUESTED

IN THE MATTER OF: Black Horse Racing Corp.

Black Horse Racing Corp.
153 Redstone Drive
Walnut, CA 91789

ATTENTION: Jiayun Shen, CEO and Registered Agent

Request for Information Under § 208(a) of the Clean Air Act, 42 U.S.C. § 7542(a)

The United States Environmental Protection Agency ("EPA") hereby requires Black Horse Racing Corp., and any of its parent organizations, affiliates, predecessors, successors, and assignees ("Black Horse Racing" or "you"), to submit certain information as part of an EPA investigation to determine Black Horse Racing's compliance with Section 203 of the Clean Air Act ("CAA"), 42 U.S.C. § 7522, and the applicable regulations at 40 C.F.R. Parts 85, 86, and 1068. Examples of vehicles regulated under these Parts include, but are not limited to, diesel trucks and light-duty gasoline vehicles. Appendix A provides definitions, Appendix B provides instructions for your responses to this request, and Appendix C specifies the information that you must submit.

The EPA issues this Request for Information ("Information Request") under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA to provide information necessary to determine whether the person has acted in compliance with these requirements and the regulations promulgated thereunder. The Administrator has delegated this authority to the undersigned Manager of Region 9's Air Enforcement Office, Enforcement and Compliance Assurance Division.

You must submit responses to this Information Request to the EPA representative listed below within thirty (30) calendar days from the date you receive this Information Request. Please carefully review the instructions, definitions, and specific requests as you prepare your response. If you anticipate being unable to fully respond to the Information Request by this date, you must contact Roshni Brahmbhatt at (415) 972-3995 or Brahmbhatt.Roshni@epa.gov to

request an extension. Any such request should be made in writing as soon as possible after receipt of this Information Request and must explain why an extension is necessary and include a proposed timeline for providing the requested information. The EPA will review your request and may extend the time in which your response must be provided to some or all of the questions.

Failure to provide the requested information may result in the initiation of a civil action pursuant to Section 205(b) of the CAA, 42 U.S.C. § 7524(b). Failure to provide all requested information in its entirety, and in the format requested, may result in additional inquiries and penalties. Pursuant to Sections 208 and 307 of the CAA, 42 U.S.C. §§ 7542(a)–(b), 7607(a), EPA may request additional information, inspections, or depositions. It is important that your responses be clear, accurate, organized, and complete. We will regard any information that is misleading, false, incomplete, or submitted without regard to its accuracy as a violation of the CAA and/or criminal statutes. We may use any information submitted in response to this Information Request in an administrative, civil, or criminal action.

You must submit all requested information under an authorized signature with the following certification (provided in Appendix E):

> I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

You may be entitled to assert a business confidentiality claim covering all or part of the information provided in response to this Information Request as specified in the Confidentiality of Business Information ("CBI") regulations, 40 C.F.R. Part 2, Subpart B. However, no CBI claim may be made with respect to emissions data as defined at 40 C.F.R. § 2.301(a)(2). You must specify the page, paragraph, and sentence when identifying the information subject to your CBI claim. Appendix E of this Information Request specifies the assertion and substantiation requirements for business confidentiality claims. EPA may, without further notice, provide the public with any information not subject to a CBI claim.

Please provide all requested information, via electronic or overnight delivery, to:

Roshni Brahmbhatt, Manager, Air Enforcement Office
Enforcement and Compliance Assurance Division
Attn: Nathan Dancher
U.S. Environmental Protection Agency, Region 9
75 Hawthorne St. (ENF-2-1)
San Francisco, CA 94105

Any questions concerning this Information Request should be directed to Roshni Brahmbhatt at (415) 972-3995 or Brahmbhatt.Roshni@epa.gov or have your attorney contact Ryan Bickmore in the Office of Regional Counsel at (415) 972-3058 or Bickmore.Ryan@epa.gov.

Roshni Brahmbhatt, Manager
Air Enforcement Office
Enforcement and Compliance Assurance Division
EPA Region 9 – San Francisco

Enclosures

Appendix A

Definitions

All terms used in this Information Request will have their ordinary meaning unless such terms are defined below or in the CAA, 42 U.S.C. §§ 7401 et seq., or the Motor Vehicle Regulations found at 40 C.F.R. Parts 85, 86, and 1068, in which case they shall have their meanings as defined therein.

1. The term "information" includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail ("email"), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term "information" includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term "information" also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.

2. The term "entity" means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.

3. The term "person" includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

4. The term "you," 'your," and "Black Horse Racing" means Black Horse Racing Corp., and any affiliates, predecessors, successors, and assignees.

5. The term "affiliated organization" means any organization or entity associated with

another entity as an agent, parent organization, predecessor corporation, subsidiary organization, or any organization, or entity acting in lieu of another entity.

6. The term "applications" means all vehicle or engine configurations.

7. The term "emission related parts" means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.

8. The term "manufacture" includes the creation, design, development, alteration, fabrication, or production of a product, device, part, or component.

9. The term "exhaust product" means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to, EGR block plates, EGR delete kits, exhaust replacement pipes, and straight pipes.

10. The term "exhaust gas recirculation" or "EGR" means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine's combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides ("NOx"). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.

11. The term "DPF" refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter ("PM") and remove it from the exhaust stream.

12. The term "SCR system" refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.

13. The term "catalysts" means emissions control devices designed to reduce NOx and carbon monoxide ("CO") and includes diesel oxidation catalysts ("DOCs"), NO_x adsorber catalysts ("NACs"), and three-way catalysts ("TWCs").

Appendix B

Instructions for Responses

1. Provide a complete, detailed response, in English, to each Request in Appendix C below.

2. Appendix F consists of an Excel workbook in which you are requested to organize your responses to Requests 1 through 4. Please populate the workbook with your responses to Requests 1 through 4 in accordance with all instructions. Requests 1 through 4 are summarized in Appendix F for your convenience only. The Request summaries in Appendix F are not substitutes for the full text of the Requests in Appendix C. Please contact Roshni Brahmbhatt if providing the responses in Excel format will be an issue.

3. Please provide your response to this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or similar digital data storage device. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).

4. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a folder specific to that question or subpart and labeled accordingly. Provide copies of documents, not original documents.

5. When a response is provided in the form of a number, specify the units of measure.

6. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.

7. Where you have previously submitted information to the EPA that is responsive to any of the Requests set forth in Appendix C, re-submit that information in accordance with these instructions (Appendix B). Identify the material that was previously provided, the date on which it was provided, how the information was provided (e.g., electronically, fax, mail), and the individual at the EPA to whom it was provided.

8. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.

9. This Request for Information is a continuing request. You must promptly supplement your response to any Request in Appendix C in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

10. You must maintain an unaltered and complete copy of your website as it exists at the time this Information Request is received for a period of two years. This includes all pages, graphical elements, and text displayed on the website. You must provide this information in readable electronic format to EPA within ten days upon request.

Appendix C

Information Request

Black Horse Racing Corp. ("Black Horse Racing" or "you") must submit the following information to the United States Environmental Protection Agency pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding the manufacture, sale, or offer for sale of certain parts and products.

Provide the following information in Appendix F, worksheet 1.

1. Identify each exhaust product Black Horse Racing manufactured, sold, or offered for sale during the period from January 1, 2018, through the date of this Information Request, in Appendix F, worksheet 1, and provide:
    a. Part Number, Item Code, or other unique identifier used by Black Horse Racing;
    b. Product name;
    c. Product manufacturer (if different);
    d. Identify the product's applications by vehicle type, make, model, and year(s);
    e. Quantity Black Horse Racing sold during the period January 1, 2018, through the date of this Information Request;
    f. Average sale price;
    g. Indicate if you have advertised this product and provide electronic file names of each advertisement provided in response to Request 5.b (if applicable);
    h. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files provided in response to Request No. 5.d.
    i. Does the product permanently or temporarily change, affect, or bypass a motor vehicle's emission related parts, including but not limited to the:
        i. EGR;
        ii. DPF;
        iii. SCR;
        iv. Catalyst;
        v. OBD; or
        vi. any sensors, signals, or records related to these systems;
    j. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and

2. For each product identified in response to Request 1 which Black Horse Racing sold during the period January 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Appendix F, worksheet 2. Black Horse Racing may provide the requested information in a spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Appendix F, worksheet 2.

Provide the following information in Appendix F, worksheet 3.

3. For products identified in response to Request 1, state whether Black Horse Racing or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
    a. a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
    b. any training or instructional materials used for educating employees and affiliates about how to perform the test; and
    c. the date and location of the test, the name and position of the person that conducted the test, and the test results.

4. For products that are identified in response to Request 1:
    a. State whether Black Horse Racing or any other entity submitted an application for an Executive Order to the California Air Resources Board;
        i. if so, provide a copy of the application for each product.
    b. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156.
    c. If the product received an Executive Order, provide the Executive Order number; and
    d. If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

Provide the following information.

5. For each product identified in response to Request 1:
    a. provide a detailed written description of all methods by which the product has been promoted or publicized by Black Horse Racing, including but not limited to, print media, commercial websites, point-of-sale webpages, event promotion or sponsorship, trade show promotion, or social media promotion, including promotion dates and/or date ranges, if applicable;
    b. provide copies of all advertisements for the product published in print or electronic media, including commercial websites, point-of-sale webpages, or social media;
    c. provide a list of other entities known to have advertised the product; and
    d. provide all manuals available (e.g., owner's and installation).

6. Provide a detailed, written description of Black Horse Racing's business structure including ownership, corporate form, parent and/or subsidiary companies, and affiliated organizations.

7. Provide the location of all warehouses or storage facilities where Black Horse Racing stores products.

8. Identify each person responsible for responding to this Information Request, including his or her title, and the Request(s) to which he or she responded.

Appendix D

Confidential Business Information

An entity may assert a business confidentiality claim covering all or part of the information provided in response to this Information Request for any business information entitled to confidential treatment under Section 208(c) of the CAA, 42 U.S.C. § 7542, and 40 C.F.R. Part 2, subpart B. Under Section 208(c) of the CAA, entities are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, subpart B, business confidentiality means "the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information." 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2, subpart B. EPA will construe a failure to furnish a business confidentiality claim with a response to this Information Request as a waiver of that claim, and the information may be made available to the public without further notice.

Pursuant to 40 C.F.R. § 2.301(h), the EPA possesses the authority to disclose to any authorized representative of the United States information which might otherwise be entitled to confidential treatment. To assist in its review and analysis, the EPA may disclose information provided in response to this and other information requests to an EPA contractor, the Eastern Research Group, under contract number 68HERH19C0004. *See* 84 Fed. Reg. 8859, 59-60 (Mar. 12, 2019). An entity may submit any comments to the EPA with its assertion of a business confidentiality claim.

To assert a business confidentiality claim, an entity must place on (or attach to) all information subject to the claim either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential" at the time it provides its response to this Information Request. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be provided separately to facilitate identification and handling by the EPA. An entity should indicate whether confidential treatment is only required until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material claimed as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that an entity must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e), (2) that it has taken reasonable measures to protect the confidentiality of the information and that it intends to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without its consent, and (4) the disclosure of the information is likely to cause substantial harm to its business's competitive edge. *See* 40 C.F.R. §§ 2.208 (a)-(e). Emission data, as

defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. *See* 42 U.S.C. § 7542(c); 40 C.F.R. § 2.301(e).

If an entity asserts a claim of business confidentiality in connection with information and documents forwarded in response to this Information Request, in accordance with 40 C.F.R. § 2.204(e)(4), it must answer the following questions with respect to any information or document for which it asserts a claim of business confidentiality:

1. What specific portions of the information are allegedly to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to the claim.

2. For what period of time do you request that the information be maintained as confidential (*e.g.*, until a certain date, until the occurrence of a specified event or permanently)? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.

3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?

4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?

5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.

6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of that harm, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effect. How could your competitors make use of this information to your detriment?

7. Is there any other explanation you deem relevant to the EPA's determination of your business confidentiality claim that is not covered in the preceding requests? If so, you may provide such additional explanation.

An entity must furnish responses to the above questions concurrent with its response to this Information Request if it has claimed any information as business confidential. *See* 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), an entity may request an extension of this deadline.

The EPA will construe a failure to furnish timely responses to the above questions as a waiver of any confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1). Please provide responses to:

Roshni Brahmbhatt, Manager, Air Enforcement Office
Enforcement and Compliance Assurance Division
Attn: Nathan Dancher
U.S. Environmental Protection Agency, Region 9
75 Hawthorne St. (ENF-2-1)
San Francisco, CA 94105

Pursuant to 40 C.F.R. § 2.205(c), be hereby advised that information provided as part of any comments may be entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), an entity may assert a business confidentiality claim covering all or part of its response to these Requests, as provided in 40 C.F.R. § 2.203(b). Information covered by such a business confidentiality claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with the comments as a waiver of that claim, and the information may be made available to the public without further notice.

Appendix E

Statement of Certification

You are submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") Information Request, issued pursuant to Section 208(a) of the Clean Air Act, to determine compliance with the Clean Air Act and its affiliated regulations.

I certify that I am fully authorized by _____ [corporate affiliation] to provide the above information on its behalf to EPA.

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

Date: _____

Name (Printed): _____

Signature: _____

Title: _____