

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

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EPA REGION III, PHILA, PA

In the Matter of:)	EPA Docket No. CAA-03-2012-0006
Sewer Authority of City of Scranton)	
307 North Washington Avenue)	
Scranton, Pennsylvania 18503,)	
)	
Respondent.)	Proceedings Pursuant to Sections 112(r)
)	and 113 of the Clean Air Act,
Scranton Sewer Authority)	42 U.S.C. §§ 7412(r) and 7413
Wastewater Treatment Plant)	
Cedar Avenue and Breck Street)	
Scranton, Pennsylvania 18505,)	
)	
Facility.)	

CONSENT AGREEMENT

STATUTORY AUTHORITY

This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA" or the "Agency") by Section 113 of the Clean Air Act ("CAA"), as amended, 42 U.S.C. § 7413, and under the authority of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The Administrator has delegated these authorities to the Regional Administrator, who has, in turn, delegated them to the Director, Hazardous Site Cleanup Division.

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as "CA/FO") as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b), and having consented to entry of this CA/FO, agree to comply with the terms of this CA/FO.

**FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 112(r)(7) OF THE CLEAN AIR ACT**

1. Respondent, Sewer Authority of City of Scranton (the "Authority") is a municipal authority in the Commonwealth of Pennsylvania with its principal place of business located at 307 North Washington Avenue, in Scranton, Pennsylvania.

2. The Authority is the owner and operator of a wastewater treatment plant located at Cedar Avenue and Breck Street in Scranton, Pennsylvania known as the Scranton Sewer Authority Wastewater Treatment Plant (the "Facility").

3. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r).

4. Section 112(r) to the CAA, 42 U.S.C. § 7412(r), requires the Administrator of EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain regulated substances. Section 112(r)(3), 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances, with threshold quantities, and defines the stationary sources that will be subject to the accident prevention regulations mandated by Section 112(r)(7), 42 U.S.C. § 7412(r)(7). Specifically, Section 112(r)(7) requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for these listed regulated substances, 42 U.S.C. § 7412(r)(7). The list of regulated substances and threshold levels can be found in 40 C.F.R. § 68.130.

5. On June 20, 1996, EPA promulgated a final rule known as the Risk Management Program, 40 C.F.R. Part 68, which implements Section 112(r)(7), 42 U.S.C. § 7412(r)(7), of the CAA. The regulations require owners and operators of stationary sources to develop and implement a risk management program that includes a hazard assessment, a prevention program, and an emergency response program. The risk management program is described in a risk management plan that must be submitted to EPA. The risk management plan must include a hazard assessment to assess the potential effects of an accidental release of any regulated substance, a program for preventing accidental releases of hazardous substances, and a response program providing for specific actions to be taken in response to an accidental release of a regulated substance, so as to protect human health and the environment.

6. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and its regulations at 40 C.F.R. §§ 68.10(a) and 68.150(a), the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must submit a risk management plan to EPA no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

7. Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B), authorizes EPA to commence an administrative action to assess civil penalties of not more than \$25,000.00 per day for each violation of Section 112(r) of the CAA that occurs before January 30, 1997. Section

113(d)(1)(B), as amended by the Debt Collection Improvement Act of 1996, authorizes EPA to commence an administrative action to assess civil penalties of not more than \$32,500.00 per day for each violation of Section 112(r) of the CAA that occurs after March 15, 2004 through January 12, 2009, and \$37,500 per day for each violation of Section 112(r) of the CAA that occurs after January 12, 2009.

8. The regulations at 40 C.F.R. § 68.3 define “stationary source,” in part, as any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

9. The regulations at 40 C.F.R. § 68.3 define “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, listed in 40 C.F.R. § 68.130, Table 1, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

10. The regulations at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA in 40 C.F.R. § 68.130.

11. The regulations at 40 C.F.R. § 68.3 define “process” as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

12. EPA conducted an inspection of the Facility on April 27, 2010, to determine Respondent’s compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the Risk Management Program regulations at 40 C.F.R. Part 68.

13. The Facility’s inventory records indicated that approximately 18,000 pounds of chlorine, Chemical Abstracts Service (“CAS”) No. 7782-50-5, were handled, stored or used at the Facility on that date.

14. The Authority submitted its initial Risk Management Plan for the Facility on June 18, 1999. The Authority submitted a revised Risk Management Plan on July 6, 2004. The revised Risk Management Plan referred to a process hazard review for the Facility dated June 11, 1999.

15. Complainant determined, based on its inspection of the Facility and documents obtained from the Facility, that the Facility failed to comply with the following components of the Risk Management Program:

- a. Update process hazard review, 40 C.F.R. § 68.50(d). Respondent did not present any documentation that it had updated the process hazard review within five years of June 11, 1999.

- b. Train employees in operating procedures in the covered process, 40 C.F.R. § 68.54. Respondent did not provide any evidence that workers at the Facility were trained in operating procedures related to the use and storage of chlorine.
- c. Prepare and implement procedures to maintain the ongoing mechanical integrity of the process equipment, 40 C.F.R. § 68.56(a). Respondent was unable to provide written procedures for any equipment related to the use and storage of chlorine at the Facility.
- d. Train employees to maintain the mechanical integrity of the covered process, 40 C.F.R. § 68.56(b). Respondent did not present any documentation, such as training records, to demonstrate that workers were trained in maintaining the mechanical integrity of the covered process, such as maintenance of chlorinators, detectors, piping and other equipment at the Facility.
- e. Perform inspections or tests of process equipment, 40 C.F.R. § 68.56(d). Respondent did not provide any documentation that inspections or tests of process equipment had been performed at the Facility.
- f. Certify compliance with RMP regulations every three years, 40 C.F.R. § 68.58(a). Respondent did not demonstrate that compliance audits had been conducted at the Facility every three years to demonstrate the Facility's compliance with the RMP regulations.
- g. Revise and resubmit Risk Management Plan every five years, 40 C.F.R. § 68.190(b). Respondent was due to resubmit its Risk Management Plan for the Facility on July 6, 2009. The revised Risk Management Plan was not submitted until April 13, 2010.

16. On April 14, 2011, EPA sent Respondent a request to show why penalties against Respondent were not warranted under Section 113 of the CAA. In response to the letter, Respondent submitted information to EPA regarding its partial compliance with the requirements of the Risk Management Program.

EPA'S CONCLUSIONS OF LAW RELATED TO THE VIOLATION OF SECTION 112(r)(7) OF THE CLEAN AIR ACT

17. The findings of fact contained in Paragraphs 1 through 16 of this CA/FO are incorporated by reference herein as though fully set forth at length.

18. Chlorine is a "regulated substance" pursuant to Section 112(r)(3) of the CAA, and listed in 40 C.F.R. § 68.130, with a threshold quantity of 2,500 pounds.

19. At all times relevant to this Consent Agreement, chlorine has been present in a process at the Facility.

20. Respondent is a "person" as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

21. Respondent has been the owner or operator of a "stationary source," as the term is defined at 40 C.F.R. § 68.3, since approximately 1999.

22. Respondent is subject to the requirements of Section 112(r) of the CAA, 40 U.S.C. § 7412(r), and 40 C.F.R. Part 68, because it is the owner and/or operator of a stationary source that had more than a threshold quantity of a regulated substance in a process. Pursuant to 40 C.F.R. § 68.10(a), an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process shall comply with the requirements of 40 C.F.R. Part 68, including the requirement to develop and implement a risk management program, on the latest of the following dates: (1) June 21, 1999; (2) three years after the date on which the regulated substance is first listed under 40 C.F.R. § 68.130; or (3) the date on which the regulated substance is first present above a threshold quantity in a process.

23. Respondent has violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and its regulations at 40 C.F.R. Part 68, by failing to meet the following requirements: update its process hazard analysis; train employees in operating procedures; develop and maintain a mechanical integrity program; train employees in mechanical integrity; perform inspections and tests of process equipment; retain required documentation; complete the triennial compliance audit; and revise and recertify RMP every five years. Respondent is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

SETTLEMENT

24. In full and final settlement and resolution of all allegations referenced in the foregoing EPA's Findings of Fact and EPA's Conclusions of Law, and in full satisfaction of all civil penalty claims pursuant thereto, for the purpose of this proceeding, Respondent consents to the assessment of a civil penalty for the violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), as set forth above, in the amount of **\$12,619.00**.

25. Respondent consents to the issuance of this Consent Agreement, and consents for purposes of settlement to the payment of the civil penalty cited in the foregoing Paragraph and to performance of the Supplemental Environmental Project, as set forth below.

SUPPLEMENTAL ENVIRONMENTAL PROJECT

26. The following Supplemental Environmental Project ("SEP") is consistent with applicable EPA policy and guidelines, specifically EPA's Supplemental Environmental Projects Policy, effective May 1, 1998.

27. Respondent agrees to purchase and plant one hundred (100) trees in the South Side Neighborhood of Scranton, Pennsylvania.

- a. The SEP is intended to improve air quality in Scranton by reducing the amount of air pollutants, including carbon monoxide, nitrogen dioxide, ozone, particulate matter and sulfur dioxide present in the ambient air. Reducing air pollutants will have the health impact of reducing respiratory triggers for asthmatic residents. The SEP is described further in the SEP Proposal ("SEP Proposal"), attached hereto as Attachment A and incorporated herein by reference.
- b. Each of the 100 trees shall have a ranking of 5 or less on the Ogren Plant Allergy Scale (OPALS™) so as to maximize the public health benefits of the trees.
- c. Respondent shall complete the installation of the trees within one year of the effective date of this CA/FO ("SEP Completion Deadline").
- d. Within thirty (30) days of the one-year anniversary of the SEP Completion Deadline, Respondent shall purchase and plant replacement trees for any trees not living on the one-year anniversary of the SEP Completion Deadline.

28. Respondent's total expenditure for installation of the SEP shall not be less than \$30,000.00, in accordance with the specifications set forth in the SEP Proposal. The SEP has been valued at \$24,081.00 pursuant to EPA's Project Model. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described in Paragraph 31 below.

29. Respondent hereby certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulations; nor is Respondent required to perform or develop the SEP by any other agreement, grant or as injunctive relief in this or any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

30. For Federal Income Tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

31. Respondent shall notify EPA Risk Management Coordinator Michael Welsh, P.E., at the address noted in Paragraph 32, below, when such implementation is complete. EPA may grant Respondent an extension of time to fulfill its SEP obligations if EPA determines, in its sole and unreviewable discretion, that, through no fault of Respondent, Respondent is unable to complete the SEP obligations within the time frame required by Paragraph 27 and, if extensions are granted, by this Paragraph. Requests for any extension must be made in writing within 48 hours of any event, such as an unanticipated delay in obtaining governmental approvals, the occurrence of which renders the Respondent unable to complete the SEP within the required time frame ("force majeure event"), and prior to the expiration of the allowed SEP Completion

Deadline. Any such requests should be directed to Michael Welsh, P.E., at the address noted in Paragraph 32 below.

32. SEP Completion Reports

- a. Respondent shall submit to EPA a Completion Report for the SEP, c/o Michael Welsh, P.E., U.S. EPA Region III, 1650 Arch Street (Mailcode 3HS61), Philadelphia, PA 19103, within fourteen (14) days of completing the initial implementation of the SEP, as set forth in Paragraph 27. The SEP Completion Report shall contain the following information:
 - (i) detailed description of the SEP as implemented, including number of each species of tree planted, locations, and Ogren values;
 - (ii) a description of any installation problems encountered and the solution thereto; and
 - (iii) Itemized costs.
- b. Respondent shall submit a One-Year Completion Report to EPA for the SEP, c/o Michael Welsh, P.E., U.S. EPA Region III, 1650 Arch Street (Mailcode 3HS61), Philadelphia, PA 19103, within sixty (60) days of the one-year anniversary of the initial completion of the SEP, as set forth in Paragraph 26. The One-Year Completion Report shall contain the following information:
 - (i) detailed description of number and species of trees requiring replacement;
 - (ii) detailed description of the number, species, locations, and Ogren values of any replacement trees for the SEP as implemented; and
 - (iii) a description of any installation problems encountered and the solution thereto.
- c. Respondent shall sign the reports required by this Paragraph and certify under penalty of law that the information contained therein is true, accurate, and not misleading by including and signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.
- d. Respondent agrees that failure to submit reports required by this Paragraph 32 shall be deemed a violation of this CA/FO and, in such an event, Respondent will be liable for stipulated penalties pursuant to Paragraph 35 below.
- e. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where

either report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

33. Respondent agrees that EPA may inspect the locations at which the SEP is implemented at any time in order to confirm that the SEP is being undertaken in conformity with the representations made herein and as required by this CA/FO.

34. EPA Acceptance of SEP Completion Reports

a. Upon receipt of the SEP Completion Report and the One-Year Completion Report, EPA may exercise one of the following options:

- (i) notify the Respondent in writing that the SEP Completion Report is deficient, provide an explanation of the deficiencies, and grant Respondent an additional thirty (30) days to correct those deficiencies;
- (ii) notify the Respondent in writing that EPA has concluded that the project has been satisfactorily completed; or
- (iii) notify the Respondent in writing that EPA has concluded that the project has not been satisfactorily completed, and seek stipulated penalties in accordance with Paragraph 35 herein.

b. If EPA elects to exercise option (i) above, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Completion Report. If agreement cannot be reached within this thirty (30) day period, EPA shall provide to the Respondent a written statement of its decision on the adequacy of the completion of the SEP, which shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by EPA as a result of any failure to comply with the terms of this CA/FO. In the event either the SEP is not completed as required herein or the SEP Completion reports are not submitted to EPA, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Paragraph 35 herein.

35. Stipulated Penalties

a. In the event that Respondent fails to comply with any of the terms or provisions of this Consent Agreement relating to the performance of the SEP described in Paragraphs 27 and 32 above and/or to the extent that the actual expenditures for the SEP do not equal or exceed the costs of the SEP required by Paragraph 27 above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- (i) Except as provided in subparagraph (iii) below, if the SEP has not been completed satisfactorily pursuant to this CA/FO, Respondent shall pay a stipulated penalty to EPA in the amount of \$24,081.00.
- (ii) If the SEP is not completed in accordance with Paragraph 27, but the Complainant determines that the Respondent: (a) made good faith and timely efforts to complete the project; and (b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty.
- (iii) If the SEP is completed in accordance with Paragraph 27, but the Respondent spent less than 90 percent of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to EPA in the amount of \$2,408.00.
- (iv) If the SEP is completed in accordance with Paragraph 27, and the Respondent spent at least 90 percent of the amount of money required to be spent for the project, Respondent shall not be liable for any stipulated penalty.
- (v) For failure to submit either SEP Completion Reports required by Paragraph 32, above, Respondent shall pay a stipulated penalty in the amount of \$500.00 for each day after the report was originally due until the report is submitted.

b. The determination of whether the SEP has been satisfactorily implemented and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.

c. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties, in accordance with the provisions of Paragraphs 36-37, below. Interest and late charges shall be paid as set forth in Paragraphs 39 through 43, below.

PAYMENT TERMS

36. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalties described in this CA/FO, Respondent shall pay the civil penalty of \$12,619.00, no later than thirty days after the effective date of the Final Order (the "final due date") by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, CAA-03-2012-0006;

- b. All checks shall be made payable to **United States Treasury**;
- c. All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Contact: Bryson Lehman 513-487-2123

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire meAuthorityge should read:
D 68010727 Environmental Protection Agency

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivcrtech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

h. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV
Enter sfo 1.1 in the search field. Open and complete the form.

i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

37. Respondent shall submit copies of the check, or verification of wire transfer or ACH, to the following persons:

Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Cynthia T. Weiss
Senior Assistant Regional Counsel (3RC42)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

38. The CAA civil penalty stated herein is based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and is consistent with 40 C.F.R. Part 19 and the *Combined Enforcement Response Policy for Section 112(r) of the Clean Air Act (August 15, 2001)*.

39. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment by the final due date or to comply with the conditions of this CA/FO shall result in the assessment of late payment charges, including interest beyond that required by this CA/FO, penalties and/or administrative costs of handling delinquent debts.

40. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is mailed or hand-delivered to Respondent. Interest will be

assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

41. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix B of EPA's *Resource Management Directives – Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the final due date and additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

42. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

43. Failure of Respondent to pay the penalty assessed by the Final Order in full by the final due date may subject Respondent to a civil action to collect the assessed penalties, plus interest, pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

GENERAL PROVISIONS

44. For the purposes of this proceeding, Respondent admits to the jurisdictional allegations set forth above.

45. Respondent agrees not to contest EPA's jurisdiction with respect to execution or enforcement of the CA/FO.

46. Except as provided in Paragraph 43 above, for purposes of this proceeding, Respondent neither admits nor denies factual allegations set forth in this Consent Agreement, but expressly waives its rights to contest said allegations.

47. By entering into this CA/FO, Respondent does not admit any liability for the civil claims alleged herein.

48. For purposes of this proceeding, Respondent expressly waives its right to hearing and to appeal this Final Order pursuant to Section 113 of the CAA, 42 U.S.C. § 7413.

49. Respondent certifies by the signing of this CA/FO that, to the best of its knowledge, the Facility is presently in compliance with all requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and all regulations promulgated thereunder.

50. The provisions of this CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of the Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to

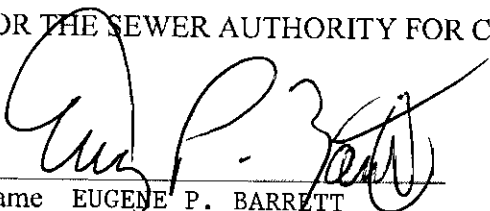
legally bind said Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

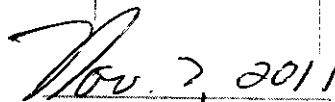
51. This CA/FO does not constitute a waiver, suspension or modification of the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7612(r), or any regulations promulgated thereunder.

52. This CA/FO is a complete and final settlement of all civil and administrative claims and causes of action set forth in this CA/FO for alleged violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). Nothing herein shall be construed to limit the authority of EPA to undertake action against any person, including the Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nothing in this CA/FO shall be construed to limit the United States' authority to pursue criminal sanctions.

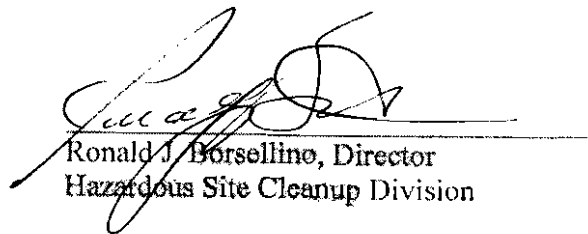
53. Each party to this action shall bear its own costs and attorney's fees.

FOR THE SEWER AUTHORITY FOR CITY OF SCRANTON

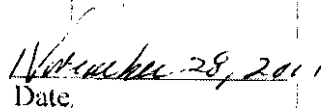

Name EUGENE P. BARRETT
Title EXECUTIVE DIRECTOR


Date

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY



Ronald J. Borsellino, Director
Hazardous Site Cleanup Division



Date

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III**

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Facility.)	


FINAL ORDER

Pursuant to Section 113 of the Clean Air Act, 42 U.S.C. § 7413, and in accordance with 40 C.F.R. Part 22, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," codified at 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to comply with the terms of the referenced Consent Agreement.

Effective Date

This Final Order shall become effective upon the date of its filing with the Regional Hearing Clerk.

Date: 12/5/11


Renee Sarajian
Regional Judicial Officer/Presiding Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
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Scranton, Pennsylvania 18503,)	
)	
Respondent.)	Proceedings Pursuant to Sections
)	112(r) and 113 of the Clean Air
Scranton Sewer Authority)	Act, 42 U.S.C. §§ 7412(r) and 7413
Wastewater Treatment Plant)	
Cedar Avenue and Breck Street)	
Scranton, Pennsylvania 18505,)	
)	
Facility.)	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of Consent Agreement and Final Order, along with enclosures and/or attachments, for the above-referenced matter, with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that a true and correct copy of the Consent Agreement and Final Order, along with its enclosures and/or attachments, was sent to:

Via certified mail, return receipt requested

T. Cabell Vest, Esquire
Aqua Law PLC
6 South 5th Street
Richmond, Virginia 23219

DEC 05 2011

Date



Cynthia T. Weiss (3RC42)
Senior Assistant Regional Counsel