

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:)
Baker Petrolite Corporation)
2929 Allen Parkway, Suite 2100)
Houston, Texas 77019,)
Respondent.)
Baker Petrolite Corporation)
40 Rutherford Run)
Bradford, Pennsylvania 16701,)
Facility.)

EPA Docket No. CAA-03-2014-0031

Proceedings Pursuant to Sections 112(r)
and 113 of the Clean Air Act,
42 U.S.C. §§ 7412(r) and 7413

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. The parties enter into this CA/FO to avoid the costs and uncertainties of prolonged litigation.

JURISDICTION

1. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).
2. The Regional Judicial Officer has the authority to approve this settlement and conclude this proceeding pursuant to 40 C.F.R. §§ 22.4(b) and 22.18(b)(3).
3. For the purpose of this proceeding, Baker Petrolite Corporation (“Respondent”) admits to the jurisdictional allegations in this Consent Agreement and agrees not to contest EPA’s jurisdiction with respect to the execution or enforcement of this Consent Agreement.
4. Except as provided in Paragraph 3, above, Respondent neither admits nor denies EPA’s Findings of Fact and EPA’s Conclusions of Law set forth in this Consent Agreement, but expressly waives its rights to contest said allegations in this proceeding.

STATUTORY AND REGULATORY BACKGROUND

5. 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).
6. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), the owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur. Section 112(r)(1) is hereinafter referred to herein as the “General Duty Clause.”
7. The General Duty Clause applies to any stationary source producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the CAA, or other extremely hazardous substances. An extremely hazardous substance is any chemical which may, as a result of short-term exposures because of releases to the air, cause death, injury or property damage due to its toxicity, reactivity, flammability, volatility or corrosivity. Senate Comm. of Environment and Public Works, Clean Air Act Amendments of 1989, Senate Rep. No. 228, 101st Cong., 1st Sess. 211 (1989). Extremely hazardous substances include, but are not limited to, regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), at 40 C.F.R. § 68.130, and chemicals on the list of extremely hazardous substances published under the Emergency Planning and Community Right-to-Know Act at 40 C.F.R. Part 355, Appendices A and B. *Id.*
8. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines “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.

EPA'S FINDINGS OF FACT

9. Respondent, Baker Petrolite Corporation ("Respondent"), is a corporation organized and incorporated in the State of Delaware, with its principal place of business located at 2929 Allen Parkway, Suite 2100, in Houston, Texas.

10. Between October 1, 2009 and May 1, 2012, Respondent was the operator of the chemical storage and distribution facility located at 40 Rutherford Run in Bradford, Pennsylvania (the "Facility"). Operations at the Facility during the relevant time period fell under NAICS Code of 213112 (support activities for oil and gas operations).

11. Respondent's operations at the Facility involved the handling and/or storage of flammable mixtures.

12. On June 23, 1999, Respondent submitted a Risk Management Plan ("RMP") for the Facility for the storage of acrolein. Respondent de-registered the RMP from EPA's national database on July 15, 2010.

13. EPA conducted an inspection of the Facility on August 11, 2010, to assess Respondent's compliance with Section 112(r)(1) and (7) of the CAA, 42 U.S.C. § 7412(r)(1) and (7).

14. Subsequent to the inspection, Respondent submitted to EPA an inventory of chemicals present in the warehouse during the inspection and their respective flammability classes. According to the chemical inventory, 4,675 gallons of Class IA liquids and 4,125 gallons of Class IC liquids were stored at the Facility in 55-gallon drums. Class IA and IC liquids are flammable liquids.

15. EPA determined that, based on the inspection and the review of information obtained from Respondent, Respondent failed to address the hazards posed by the storage and handling of certain flammable liquids and failed to minimize the consequences of accidental releases which do occur, as required by the General Duty Clause, as follows:

- a. Respondent failed to provide proper storage of flammable liquids consistent with applicable industry standards, which may include but are not limited to National Fire Protection Association 30, *Flammable and Combustible Liquid Code Handbook*, 8th ed. (2008) and the *International Fire Code* (2006). Quantities of certain flammable liquids were stored at the Facility in excess of quantitative limits and in a configuration exceeding the maximum storage height for flammable liquids stored in drums in unprotected storage areas.

- b. Respondent failed to provide fire protection for the drum storage area consistent with applicable industry standards, e.g., there were no automatic sprinklers installed in the drum storage area of the warehouse; and
- c. Respondent failed to provide appropriate containment, drainage and spill control consistent with applicable industry standards.

16. EPA determined that the storage deficiencies identified above constituted violations of the General Duty Clause.

17. On April 19, 2011, EPA issued Administrative Order, Docket No. CAA-03-2011-0155DA ("Order"), to Respondent and to David Walters, the owner of the Facility property, to correct the identified alleged violations of the General Duty Clause.

18. Respondent elected to move its operations to a different leased location, at 48 Susquehanna Road in Custer City, Pennsylvania (the "Custer Facility"). Respondent moved its operations to the Custer Facility on May 1, 2012.

19. While reserving the right to dispute the applicability of the cited industry standards, Respondent, by moving to the Custer Facility, satisfied its obligations under the Order and on July 26, 2012, EPA issued a Notice of Termination of the Order.

20. On February 21, 2013, EPA sent an Opportunity to Show Cause letter to Respondent that referenced alleged violations of the General Duty Clause and proposed a penalty.

21. On April 17, 2013, Respondent timely responded to the Opportunity to Show Cause letter.

22. 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 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 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.

EPA'S CONCLUSIONS OF LAW

23. The findings of fact contained in Paragraphs 1 through 22 of this CA/FO are incorporated by reference herein as though fully set forth at length.

24. The flammable liquids stored at the Facility are extremely hazardous substances for purposes of the Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

25. At all times relevant to this Consent Agreement, extremely hazardous substances have been present in a process at the Facility.

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

27. At all times relevant to this Consent Agreement, Respondent has been the operator of a “stationary source,” as the term is defined at 42 U.S.C. § 7412(r)(2)(C).

28. Respondent is subject to the requirements of Section 112(r)(1) of the CAA, 40 U.S.C. § 7412(r)(1), because it is the owner and/or operator of a stationary source.

29. Based on information available to EPA, EPA alleges that Respondent has violated the requirements of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), to design and maintain a safe facility to prevent accidental releases of its extremely hazardous substances, and minimize the consequences of accidental releases of flammable liquids, as specifically detailed in Paragraph 15. Respondent is, therefore, subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

SETTLEMENT

30. 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 violation of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), as set forth above, in the amount of \$22,642.

31. 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

32. 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.

33. Respondent agrees to develop a training facility for use by the Tri-County Fire School on its property in Smethport, Pennsylvania to train emergency responders in addressing emergencies at oil and gas well sites, as detailed in the SEP Proposal attached as Exhibit A hereto. Respondent shall commence the development of the training facility in the spring of 2014, with an estimated completion date of June 30, 2014 (“SEP Completion Deadline”).

34. Respondent’s total expenditure for installation of the SEP shall not be less than \$42,850, in accordance with the specifications set forth in the SEP Proposal. The SEP has been

valued at \$34,280. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described in Paragraph 38 below.

35. 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.

36. 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.

37. Respondent shall notify EPA Risk Management Coordinator Mary Hunt, P.E., at the address noted in Paragraph 38, 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 discretion, that, through no fault of Respondent, Respondent is unable to complete the SEP obligations within the time frames required by Paragraph 33 and, if extensions are granted, by this Paragraph. Requests for any extension must be made in writing within 48 hours of Respondent's knowledge of any event, such as an unanticipated delay in obtaining governmental approvals, the occurrence of which renders the Respondent unable to complete either the SEP within the required time frame ("force majeure event"), and prior to the expiration of the applicable SEP Completion Deadline. Any such requests should be directed to Mary Hunt at the mail and email addresses noted in Paragraph 38 below.

38. SEP Completion Report

- a. Respondent shall submit to EPA a SEP Completion Report via first class mail to Mary Hunt, P.E., U.S. EPA Region III, 1650 Arch Street (Mailcode 3HS61), Philadelphia, PA 19103, and via email, hunt.mary@epa.gov, within thirty (30) days of completing the SEP, as set forth in Paragraph 33. The SEP Completion Report shall contain the following information:
 - (i) detailed description of the SEP as implemented;
 - (ii) a description of any problems encountered and the solution thereto; and
 - (iii) itemized costs.
- b. 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 knowingly submitting false information, including the possibility of fines and imprisonment.

- c. Respondent agrees that failure to submit the report required by this Paragraph 38 shall be deemed a violation of this CA/FO and, in such an event, Respondent will be liable for stipulated penalties pursuant to Paragraph 41 below.
- d. 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.

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

40. EPA Acceptance of SEP Completion Report

- a. Upon receipt of the SEP 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 41 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 Report is not submitted to EPA, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Paragraph 41 herein.

41. 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 Paragraph 33 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 34 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 the value of the SEP, \$34,280, as set forth in Paragraph 34.
 - (ii) If a SEP is not completed in accordance with Paragraph 33, 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 33, 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 \$4,285.
 - (iv) If the SEP is completed in accordance with Paragraph 33, 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 the SEP Completion Report required by Paragraph 38, 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 42 and 43, below. Interest and late charges shall be paid as set forth in Paragraphs 44 through 48, below.

PAYMENT TERMS

42. 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 \$22,642, no later than thirty (30) days after the effective date of the Final Order by either 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-03-2014-0031;
- 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: Heather Russell, 513-487-2044

- 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 message 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 Rivertech 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

43. 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

44. 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 Respondent's cooperation, and is consistent with 40 C.F.R. Part 19 and the *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68* (June 2012).

45. 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, penalties and/or administrative costs of handling delinquent debts.

46. Interest on the amount of 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); provided, however, that should the civil penalty be paid within 30 days after the Effective Date of the Final Order, Respondent shall not be liable on such interest.

47. 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 an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

48. 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).

49. 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

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

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

52. Respondent certifies by the signing of this CA/FO that, to the best of its knowledge, based upon a hazard assessment conducted by Respondent, the Custer Facility

presently is in compliance with all requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r)(1).


53. 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.

54. 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. § 7412(r).

55. 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.

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

FOR BAKER PETROLITE CORPORATION




Kenneth J. Hake
Northeast District Manager



Date

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY



Kathryn A. Hodgkiss, Acting Director
Hazardous Site Cleanup Division

12-23-13

Date

ATTACHMENT A

November 11, 2013

Cynthia T. Weiss, Esq.
Office of Regional Counsel
U.S. Environmental Protection Agency,
Region 3
1650 Arch Street (Mailcode 3RC42)
Philadelphia, PA 19103-2029

**Settlement Confidential
Subject to FRE 408**

Dear Ms. Weiss:

Baker Petrolite Corporation ("BPC") hereby submits this proposal to perform a Supplemental Environmental Project ("SEP"). The proposed SEP is envisioned as part of a settlement with the U.S. Environmental Protection Agency ("EPA") related to alleged violations of Section 112(r)(1) of the Clean Air Act ("CAA General Duty Clause") at BPC's facility located at 40 Rutherford Run, Bradford Township, in McKean County, Pennsylvania (the "Facility").

Background

On April 19, 2011, EPA issued an Administrative Order, Docket No. CAA-03-2011-0155DA (the "Administrative Order") to BPC alleging violations of Section 112(r)(1) of the Clean Air Act ("CAA General Duty Clause") related to fire protection and chemical storage practices at the Facility. BPC worked with EPA to resolve the issues addressed in the Administrative Order, and on July 26, 2012, EPA issued a letter terminating the Administrative Order. On February 25, 2013, EPA issued a penalty letter indicating that BPC "violated the General Duty Clause with respect to failure to provide adequate fire protection for the extremely hazardous substances stored at the Facility."

Through subsequent conversations with EPA, BPC concluded that in order to protect and enhance public health and the environment, it would undertake an environmentally beneficial project as part of its proposed settlement relating to the alleged violations of the General Duty Clause described in the Administrative Order. BPC coordinated with local first responders, including the McKean County, PA Emergency Management Agency, and determined that a SEP providing oil and gas facility-specific training opportunities to first responders in the jurisdiction in which BPC operates would be ideal. The information

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contained below focuses on the various aspects of the proposed SEP and lays out relevant information based on the five-step process set forth in relevant guidance.¹

I. Detailed Description of the Proposed Project

Currently, the Tri-County Fire School located in Smethport, Pennsylvania is the only fixed fire training center in the area and the next nearest facility is over two hours away. The Tri-County facility is used by firefighters and other first responders not only in McKean County, but also Warren, Potter, Elk, and Cameron Counties. As part of this proposed SEP, BPC would work with the Tri-County Fire School to develop a unique training facility with a layout similar to that of a modern oil and gas well site. The simulated location would provide a tailored training experience for first responders that encounter emergencies at oil and gas sites. BPC is not required by any federal, state or local law or regulation to undertake the proposed SEP project.

Considering the increased oil and gas operations in Pennsylvania and the limited training facilities in the area, BPC believes (and first responders in McKean County concur) that the proposed SEP would fill a much needed specific niche in first responder training. While first responders receive general training, oil and gas well sites have a much different layout than traditional building structures. The proposed SEP would involve developing a training area modeled on modern oil and gas well sites to better train firefighters to deal with responding to incidents at those specific kinds of sites. For example, the training facility is expected to include an oil field well head and jack, a barrel oil storage area, a gas well head, and a propane tank with control valves. The oil field jack and oil and gas well heads would be plumbed with gas lines and fed from a 500- or 1000-gallon tank of LPG. The new training facility is also expected to include a control and safety stand where the safety officer could control the fires.

This proposed training facility would represent a well site so that first responders and firefighters could experience navigating an oil and gas site and practice their tactics on controlling fire or other dangerous conditions at such a location. The Chief Director of the Pennsylvania Emergency Management Agency and others at the Tri-County Facility have indicated that they are in favor of this type of training prop. The proposed SEP will undoubtedly improve and reduce risks to public health and the environment.

¹U.S. EPA, Memo from Steven A. Herman, Assistant Administrator to Regional Administrators. "Issuance of Final Supplemental Environmental Projects Policy." Apr. 10, 1998. ("EPA's 1998 SEP Policy").

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II. Nexus Between the Violation and the Proposed Project.

The alleged violations in question were related to the storage of flammable liquids at a facility that serves oil and gas operations in McKean County, PA. The proposed training facility at the Tri-County Fire School is expected to provide proper site-specific training so that firefighters and first responders are better equipped to appropriately address future fires or other emergencies at oil and gas sites. By providing training specific to oil and gas sites, the proposed SEP would reduce the adverse impact to public health and the environment by ensuring first responders and firefighters are prepared to address emergencies at such sites. For these reasons, the project adequately fulfills the relationship (nexus) requirement outlined in EPA's 1998 SEP Policy.²

III. Statement Regarding the Category of the Project

EPA's 1998 SEP Policy identifies seven specific categories of projects that may qualify as SEPs. In order for a proposed project to be accepted by EPA, the proposed SEP must satisfy the requirements of at least one category. This proposed SEP falls under the *Emergency Planning and Preparedness* category set forth in EPA's 1998 SEP Policy. Projects in the *Emergency Planning and Preparedness* must provide assistance to a "responsible state or local emergency response or planning entity." The assistance can take the form of computers and software, communication systems, chemical emission detection and inactivation equipment, HAZMAT equipment, or training.

BPC's proposed SEP project will involve construction of a new oil and gas field training facility at the Tri-County Fire School, which is the responsible state or local emergency response or planning entity.³ The Tri-County Fire School is in the same state and emergency planning district affected by the alleged violations at issue, and to our knowledge EPA has not previously provided the entity with financial assistance for the same or similar purposes as the proposed development.⁴ Finally, the proposed SEP project involves non-cash assistance. For these reasons, the proposed project is properly categorized under *Emergency Planning and Preparedness*.

² EPA's 1998 SEP Policy at 5.

³ Id. at. 11.

⁴ Id.

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IV. Itemized Listing of all Costs

While the final project may vary to a certain extent, BPC proposes to work with the Tri-County Fire School and others to build a new oil and gas training facility. As discussed above, the training facility is expected to include an oil field well head and jack, a barrel oil storage area, a gas well head, and a propane tank with control valves. The oil field jack and oil and gas well heads would be plumbed with gas lines and fed from a 500- or 1000-gallon tank of LPG. The new training facility would also include a control and safety stand where the safety officer could control the fires. Below are general estimates of the costs associated with completing the proposed SEP:

Capital Costs:

- Excavation \$4,000.00
- Control Platform \$4,200.00
- Form material \$750.00
- Gravel \$1,500.00
- Concrete \$4,000.00
- Piping, valves and manifold \$8,000.00
- Propane tank \$2,400.00
- First tank of propane \$3,000.00
- Props pump jack, wellhead, tank, split valve, oil pit, tank truck \$5,000.00
- Labor \$10,000.00

Total estimate \$ 42,850.00

V. Substantive Description of the Benefit to the Public Health or Environment

This project will benefit public health and the environment by ensuring that firefighters and first responders in the area are trained how to properly respond to gas and oil field emergencies.

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Page 5

This will benefit both public health and the environment in several ways. It will (1) help ensure that oil and gas emergencies in the area of interest are handled effectively and efficiently; and (2) ensure that firefighters and first responders handle oil and gas emergencies safely, by being properly familiarized with the layout of oil and gas well sites and making sure that they understand both preventative measures and emergency safety procedures. This decreases the health and environmental risks posed by these kinds of actions because if an oil and gas field emergency is handled quickly and correctly, less people and a smaller portion of the surrounding environment are likely to be affected by the emergency.

Finally, this specific training will better ensure that firefighters and first responders will be safer whether on site or responding to an oil or gas well emergency.

VI. Other Requirements

To further ensure that the proposed SEP meets the necessary criteria to be approved by EPA, BPC inquired with the EMA whether the Tri-County Fire School is currently receiving funds from FEMA or any other federal agency for emergency response or training equipment. Bruce Manning, Director of the McKean County Emergency Management Agency confirmed that the school does not receive federal funding. Additionally, BPC reviewed the FEMA award lists to see if the Tri-County Fire School is listed as a recipient. BPC did not identify the school on the FEMA grant awards lists.

VII. Calculation of the Final Penalty

BPC believes that it should receive the maximum mitigation percentage credit when EPA calculates the SEP mitigation amount and the final settlement penalty. While EPA has indicated that the penalty mitigation should not exceed 80 percent of the SEP cost, Agency guidance allows for a final reduction of up to 100 percent under circumstances where the SEP results in pollution prevention "of outstanding quality."⁵

The proposed SEP will serve a unique and much-needed niche in Pennsylvania by training first responders to address emergencies at oil and gas well sites. Through this training, first responders will be better equipped to respond to such emergencies, resulting in a reduction in harm to human health, safety and the environment. Furthermore, a more effective response to emergencies at oil and gas well sites will likely result in an overall decrease in the amount of pollution released into the environment during such an emergency.

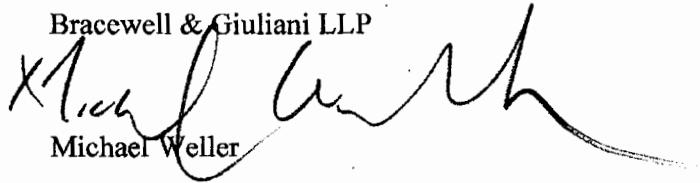
⁵ EPA's 1998 SEP Policy at 16; and U.S. EPA, RCRA / Superfund Hotline Monthly Report. Doc No. EPA 530-R-99-012h (Aug. 1999).

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Jason Hutt and I look forward to receiving your feedback on the proposed SEP and finalizing the settlement in short order.

Very truly yours,

Bracewell & Giuliani LLP

A handwritten signature in black ink, appearing to read "Michael Weller", written over the typed name below.

Michael Weller

Cc: Jason B. Hutt,
Bracewell & Giuliani LLP

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

In the Matter of:)	EPA Docket No. CAA-03-2014-0031
Baker Petrolite Corporation, Suite 2100)	
2929 Allen Parkway)	
Houston, Texas 77019,)	
)	
Respondent.)	
)	Proceedings Pursuant to Sections 112(r)
Baker Petrolite Corporation)	and 113 of the Clean Air Act,
40 Rutherford Run)	42 U.S.C. §§ 7412(r) and 7413
Bradford, Pennsylvania 16701,)	
)	
Facility.)	
<hr/>		


FINAL ORDER

Pursuant to Section 113 of the Clean Air Act, 42 U.S.C. § 7413, 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, and based on the representations in the Consent Agreement, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is ordered to pay the \$22,642 penalty.

Effective Date

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

Date: 1/30/14


Renée Sarajian
Regional Judicial Officer/Presiding Officer

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-03-2014-
Baker Petrolite Corporation)	0031
2929 Allen Parkway, , Suite 2100)	
Houston, Texas 77019,)	
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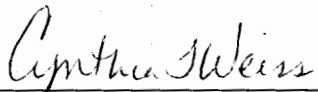
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of Complainant's, the United States Environmental Protection Agency's, Consent Agreement and Final Order with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that true and correct copies of the Administrative Order, along with its enclosures and/or attachments, were sent via certified mail, return receipt requested, to:

Michael Weller, Esquire
Bracewell & Guiliani LLP
2000 K Street NW, Suite 500
Washington, DC 20006-1872

Date:

JAN 30 2014



Cynthia T. Weiss
Senior Assistant Regional Counsel
Counsel for Complainant
(215) 814-2659