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

In the Matter of:	)	
	)	
Town of Culpeper	)	**EPA Docket Nos.: CERCLA-03-2012-0139**
400 South Main Street, Suite 101	)	**EPCRA-03-2012-0139**
Culpeper, Virginia	)	**CAA-03-2012-0139**
22701,	)	
	)	
Respondent.	)	
	)	
Town of Culpeper Water	)	**Proceedings Pursuant to Sections 103 and**
Pollution Control Facility	)	**109 of the Comprehensive Environmental**
15108 Service Lane	)	**Response, Compensation, and Liability Act,**
Culpeper, Virginia	)	**42 U.S.C. §§ 9603, 9609, Sections 304**
22701,	)	**and 325 of the Emergency Planning and**
	)	**Community Right-to-Know Act, 42 U.S.C.**
and	)	**§§ 11004, 11045, and Sections 112(r)(7) and 113(d)**
	)	**of the Clean Air Act, as amended, 42 U.S.C.**
Culpeper Water Treatment	)	**§§ 7412(r)(7), 7413(d)**
Facility	)	
816 Woodview Road	)	
Culpeper, Virginia	)	
22701,	)	
	)	
Facilities.	)	
	)	

CONSENT AGREEMENT

STATUTORY AUTHORITY

This Consent Agreement is proposed and entered into under the authority vested in the President of the United States by Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. § 9609. The President has delegated this authority to the Administrator of the United States Environmental Protection Agency ("EPA"), who has, in turn, delegated it to the Regional Administrator of EPA, Region III. The Regional Administrator has redelegated this authority to the Director, Hazardous Site

Cleanup Division, EPA Region III ("Complainant"). This Consent Agreement is also proposed and entered into pursuant to the authority vested in the Administrator of EPA by Section 325 of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045, delegated to the Regional Administrator by EPA Delegation No. 22-3-A, and redelegated to Complainant by EPA Region III Delegation No. 22-3-A, and the authority vested in the Administrator of EPA by Sections 113(a)(3)(A) and 113(d) of the of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7413(a)(3)(A), 7413(d), delegated to the Regional Administrator by EPA Delegation No. 7-6-A, and redelegated to Complainant by EPA Region III Delegation No. 7-6-A. Further, this Consent Agreement is proposed and entered into under the authority provided by 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 ("Part 22"). 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 the entry of this CA/FO, agree to comply with the terms of this CA/FO.

PRELIMINARY STATEMENT

1. The implementing regulations for the emergency notification requirements in Section 304 of EPCRA, 42 U.S.C. § 11004, are codified at 40 C.F.R. Part 355. On November 3, 2008, EPA issued a final rule, 73 Fed. Reg. 65451 (Nov. 3, 2008), *inter alia*, to make these regulations easier to read by presenting them in a plain language format. The amendments resulted in a re-numbering of 40 C.F.R. Part 355, which became effective on December 3, 2008. This CA/FO references the newly effective numbering, but includes the pre-2008 numbering in parentheses since those regulations were in effect at the time of the violations alleged herein.

FINDINGS OF FACT

2. Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), requires the Administrator of EPA to publish a list of substances designated as hazardous substances, which, when released into the environment may present substantial danger to public health or welfare or to the environment, and to promulgate regulations establishing that quantity of any hazardous substance, the release of which shall be required to be reported under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a) ("Reportable Quantity" or "RQ"). The list of hazardous substances and their respective RQs is codified at 40 C.F.R. § 302.4.

3. Section 302(a) of EPCRA, 42 U.S.C. § 11002(a), requires the Administrator of EPA to publish a list of Extremely Hazardous Substances ("EHSs") and to promulgate regulations establishing that quantity of any EHS the release of which shall be required to be reported under Section 304(a) through (c) of EPCRA, 42 U.S.C. § 11004(a) through (c), ("Reportable Quantity" or "RQ"). The list of EHSs and their respective RQs is codified at 40 C.F.R. Part 355, Appendices A and B.

4. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r), which requires the Administrator of EPA, among other things, to promulgate regulations to prevent accidental releases of certain regulated substances. Pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), the Administrator must promulgate a list of regulated substances, with threshold quantities, and define the stationary sources that will be subject to the accident prevention regulations mandated by Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). Section 112(r)(7), 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for these listed regulated substances.

5. On June 20, 1996, EPA promulgated the Chemical Accident Prevention Provision ("CAPP") Regulations, 40 C.F.R. Part 68, which implement Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). These regulations require each owner and operator of a stationary source to develop and implement a risk management program that includes a hazard review, a prevention program, and an emergency response program.

6. The CAPP Regulations set forth the requirements for the risk management program that must be established at each stationary source. Each owner/operator of a stationary source must describe the risk management program for the source in a Risk Management Plan ("RM Plan"), which must be submitted to EPA.

7. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, the RM Plan must be submitted for all covered processes, by an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, 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.

8. Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), prohibits any person from operating a stationary source in violation of the CAPP Regulations after the regulations' effective date.

9. Pursuant to 40 C.F.R. § 68.10, the CAPP Regulations are applicable to any owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process.

10. Respondent Town of Culpeper ("Town" or "Respondent") is a municipality established under the laws of the Commonwealth of Virginia, with its principal place of business located at 400 South Main Street, Suite 101 in Culpeper, Virginia.

11. As a municipality, Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), their

respective regulations, 40 C.F.R. §§ 302.3 and 355.61 (355.20), and Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

12. Beginning in or about 1979, and at all times relevant to this CA/FO, Respondent has been in charge of, within the meaning of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6, and has been the operator of, within the meaning of Section 304 of EPCRA, 42 U.S.C. § 11004, of the water pollution control facility located at 15108 Service Lane in Culpeper, Virginia ("Culpeper WPCF").

13. Beginning in or about 1994, and at all times relevant to this CA/FO, Respondent has owned and operated the water treatment plant located at 816 Woodview Road in Culpeper, Virginia ("Culpeper WTP), within the meaning of Section 112(r)(7)(B)(ii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(ii), and 40 C.F.R. §§ 68.10, 68.12, and 68.150.

14. The Culpeper WPCF is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), and Section 304 of EPCRA, 42 U.S.C. § 11004, and their respective regulations, 40 C.F.R. §§ 302.3 and 355.61 (355.20).

15. On or about November 19, 2009, EPA conducted an inspection of the Culpeper WPCF to determine the Culpeper WPCF's compliance with Section 103 of CERCLA, 42 U.S.C. § 9603, and Sections 302-312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §§ 11002-11022.

16. At all times relevant to this CA/FO, the Culpeper WPCF was a facility at which a hazardous chemical was produced, used or stored.

17. The Culpeper WTP is a "stationary source" as that term is defined in Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.

18. Since at least 1994, Respondent has handled, stored, and used, and continues to handle, store, and use, between approximately 8,000 pounds and 12,000 pounds of chlorine, Chemical Abstracts Service ("CAS") No. 7782-50-5, to treat drinking water at the Culpeper WTP.

19. Chlorine, is a "regulated substance," as defined by Section 112(r)(2)(B) and (3) of the CAA, 42 U.S.C. § 7412(r)(2)(B) and (3), and 40 C.F.R. § 68.3, and listed in Table 1 of 40 C.F.R. § 68.130. Chlorine was listed as a regulated substance in the text of Section 112(r)(3), 42 U.S.C. § 7412(r)(3), when that Section was added to the CAA in 1990.

20. The "threshold quantity," as that term is defined by 40 C.F.R. § 68.3, and used in Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), for chlorine is 2,500 pounds, as listed in Table 1 of 40 C.F.R. § 68.130.

21. Respondent's storage of chlorine is a "process," as defined by 40 C.F.R. § 68.3.

22. Respondent is subject to the CAPP Regulations set forth at 40 C.F.R. Part 68.

23. On or about June 21, 1999, Respondent submitted to EPA a RM Plan for the Facility, certifying that it had developed and implemented a risk management program for the Facility.

24. Respondent submitted updates to its RM Plan on April 7, 2005 ("2005 RM Plan"), and again on March 31, 2010.

25. On or about December 16, 2009, EPA conducted an inspection of the Culpeper WTP to determine its compliance with Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the CAPP Regulations set forth at 40 C.F.R. Part 68.

FINDINGS OF FACT RELATED TO THE VIOLATION OF SECTION 103 OF CERCLA

26. The findings of fact contained in paragraphs 1 through 25 of this CA/FO are incorporated by reference herein as though fully set forth at length.

27. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), as implemented by 40 C.F.R. Part 302, requires, in relevant part, a person in charge of a facility to immediately notify the National Response Center ("NRC") established under Section 311(d)(2)(E) of the Clean Water Act, as amended, 33 U.S.C. § 1321(d)(2)(E), as soon as he/she has knowledge of a release (other than a federally permitted release) of a hazardous substance from such facility in a quantity equal to or greater than the RQ.

28. Beginning on or about May 10, 2008, at or about 8:30 a.m., an estimated 106 pounds of chlorine, Chemical Abstracts Service ("CAS") No. 7782-50-5, were released from the Culpeper WPCF (the "Release").

29. Chlorine is a hazardous substance, as defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and 40 C.F.R. § 302.3, with an RQ of 10 pounds, as listed in 40 C.F.R. § 302.4.

30. The Release constitutes a release of a hazardous substance in a quantity equal to or exceeding the RQ for that hazardous substance, requiring immediate notification of the NRC pursuant to Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

31. The Release was not a "federally permitted release" as that term is used in Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6, and defined in Section 101(10) of CERCLA, 42 U.S.C. § 9601(10).

32. Respondent knew or should have known of the Release of chlorine from the Facility in a quantity equal to or exceeding its RQ at or about 9:00 a.m. on May 10, 2008.

33. Respondent notified the NRC of the Release at 11:18 a.m. on May 10, 2008.

34. Respondent failed to immediately notify the NRC of the Release as soon as Respondent knew or should have known that a release of a hazardous substance had occurred from the Facility in an amount equal to or exceeding its applicable RQ, as required by Section 103 of CERCLA, 42 U.S.C. § 9603, and 40 C.F.R. § 302.6.

CONCLUSION OF LAW RELATED TO THE VIOLATION OF SECTION 103 OF CERCLA

35. Respondent's failure to immediately notify the NRC of the Release is a violation of Section 103 of CERCLA, 42 U.S.C. § 9603, and is, therefore, subject to the assessment of penalties under Section 109 of CERCLA, 42 U.S.C. § 9609.

FINDINGS OF FACT RELATED TO THE VIOLATION OF SECTION 304(a) AND (b) OF EPCRA – SERC

36. The findings of fact and conclusions of law contained in paragraphs 1 through 35 of this CA/FO are incorporated by reference herein as though fully set forth at length.

37. Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), as implemented by 40 C.F.R. Part 355, Subpart C (40 C.F.R. § 355.40), requires, in relevant part, the owner or operator of a facility at which hazardous chemicals are produced, used, or stored to notify the State Emergency Response Commission ("SERC") and the Local Emergency Planning Committee ("LEPC") immediately following a release of a hazardous substance or an EHS in a quantity equal to or exceeding the RQ for the hazardous substance or EHS.

38. Chlorine is an EHS as defined under Section 302(a) of EPCRA, 42 U.S.C. § 11002(a), and 40 C.F.R. § 355.61 (40 C.F.R. § 355.20), with an RQ of 10 pounds, as listed in 40 C.F.R. Part 355, Appendices A and B.

39. The SERC for the Facility for the purpose of emergency release notification is, and has been at all times relevant to this CA/FO, the Virginia Emergency Response Counsel, c/o Virginia Department of Environmental Quality, 629 East Main Street, Mezzanine Level, Richmond, Virginia.

40. The Release of chlorine from the Culpeper WPCF constitutes a release of an EHS in a quantity equal to or exceeding its RQ.

41. The Release required immediate notification of the SERC pursuant to Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and 40 C.F.R. Part 355, Subpart C (40 C.F.R. § 355.40).

42. Respondent did not notify the SERC of the Release.

43. Respondent failed to immediately notify the SERC of the Release of chlorine as soon as Respondent knew or should have known that a release of an EHS had occurred at the Culpeper WPCF in an amount equal to or exceeding its RQ, as required by Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and 40 C.F.R. Part 355, Subpart C (40 C.F.R. § 355.40).

CONCLUSION OF LAW RELATED TO THE VIOLATION OF SECTION 304(a) AND (b) OF EPCRA – SERC

44. Respondent's failure to notify the SERC immediately of the Release is a violation of Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

FINDINGS OF FACT RELATED TO THE VIOLATION OF SECTION 304(c) OF EPCRA – SERC

45. The findings of fact and conclusions of law contained in paragraphs 1 through 44 of this CA/FO are incorporated by reference herein as though fully set forth at length.

46. Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), as implemented by 40 C.F.R. Part 355, Subpart C (40 C.F.R. § 355.40), requires, in relevant part, that when there has been a release of a hazardous substance or an EHS in a quantity equal to or greater than the RQ from a facility at which hazardous chemicals are produced, used, or stored, the owner or operator of that facility must provide a written follow-up report regarding the release to the SERC and the LEPC, as soon as practicable.

47. The Release constitutes a release of an EHS in a quantity equal to or exceeding its RQ, requiring immediate notification of the SERC and LEPC pursuant to Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and 40 C.F.R. Part 355, Subpart C (40 C.F.R. § 355.40), and, consequently, requiring submission of written follow-up reports to the SERC and LEPC pursuant to Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), and 40 C.F.R. Part 355, Subpart C (40 C.F.R. § 355.40).

48. Respondent never provided a written follow-up report to the SERC.

49. Respondent did not provide a written follow-up report regarding the Release to the SERC as soon as practicable after Respondent knew or should have known of the Release, as

required by Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), and 40 C.F.R. Part 355, Subpart C (40 C.F.R. § 355.40).

CONCLUSION OF LAW RELATED TO THE VIOLATION OF SECTION 304(c) OF EPCRA – SERC

50. Respondent's failure to provide a written follow-up report regarding the Release to the SERC, as soon as practicable, is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

FINDINGS OF FACT RELATED TO THE VIOLATION OF SECTION 304(c) OF EPCRA – LEPC

51. The findings of fact and conclusions of law contained in paragraphs 1 through 50 of this CA/FO are incorporated by reference herein as though fully set forth at length.

52. Respondent never filed a written follow-up report to the LEPC.

53. Respondent did not provide a written follow-up report regarding the Release to the LEPC as soon as practicable after Respondent knew or should have known of the Release, as required by Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), and 40 C.F.R. Part 355, Subpart C (40 C.F.R. § 355.40).

CONCLUSION OF LAW RELATED TO THE VIOLATION OF SECTION 304(c) OF EPCRA – LEPC

54. Respondent's failure to provide a written follow-up report regarding the Release to the LEPC, as soon as practicable, is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), and is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

FINDINGS OF FACT RELATED TO THE VIOLATION OF SECTION 112(r)(7) OF THE CAA AND 40 C.F.R. § 68.15 – FAILURE TO DEVELOP AND IMPLEMENT A RISK MANAGEMENT PROGRAM

55. The findings of fact contained in paragraphs 1 through 54 of this CA/FO are incorporated by reference herein as though fully set forth at length.

56. Pursuant to 40 C.F.R. § 68.15(a), the owner or operator of a stationary source subject to Program 2 or Program 3 requirements is required to develop a management system to oversee the implementation of the risk management program elements.

57. The CAPP Regulations set forth different requirements for facilities depending on whether their regulated process is categorized as Program 1, Program 2, or Program 3 under the CAPP Regulations. Pursuant to 40 C.F.R. § 68.10(d), a facility is eligible for consideration as a Program 3 if its regulated process is included in a particular North American Industry Classification System ("NAICS") code, or if the process is subject to the Occupation Safety and Health Administration ("OSHA") process safety management ("PSM") standard at 29 C.F.R. § 1910.119, and one or more of the following is true: (i) during the past five years, the process experienced an accidental release that resulted in death, injury, or response or restoration activities for an exposure of an environmental receptor; (ii) the distance to any public receptor is less than the distance to a toxic or flammable endpoint for a worst-case release assessment conducted under 40 C.F.R. Part 68 Subpart B and 40 C.F.R. § 68.25; or (iii) the stationary source and local emergency planning and response organizations have not coordinated emergency response procedures.

58. Pursuant to 29 C.F.R. § 1910.119(a)(1)(i) and its Appendix A, a process is subject to OSHA PSM if it involves chlorine above 1,500 pounds.

59. Since Respondent stores more than 1,500 pounds of chlorine at the Culpeper WTP, and has since 1994, it is subject to OSHA PSM and, therefore, subject to Program 3 requirements.

60. As the owner or operator of a stationary source with a process subject to Program 3 requirements, Respondent was required to develop a management system to oversee the implementation of the risk management program elements in connection with its storage of chlorine at the Culpeper WTP upon the effective date of the CAPP Regulations on June 20, 1996.

61. Respondent did not develop a management system to oversee the implementation of the risk management program element s in connection with its storage of chlorine at the Culpeper WTP until or about March 31, 2010.

CONCLUSION OF LAW RELATED TO THE VIOLATION OF SECTION 112(r)(7) OF THE CAA AND 40 C.F.R. § 68.15 – FAILURE TO DEVELOP AND IMPLEMENT A RISK MANAGEMENT PROGRAM

62. Respondent's failure to develop a management system to oversee the implementation of the risk management program elements in connection its storage of chlorine at the Culpeper WTP until or about March 31, 2010, is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.15(a), and is therefore subject to the assessment of penalties under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

FINDINGS OF FACT RELATED TO THE VIOLATION OF SECTION 112(r)(7) OF THE CAA AND 40 C.F.R. § 68.67(f) – FAILURE TO UPDATE AND REVALIDATE PROCESS HAZARD ANALYSIS

63. The findings of fact contained in paragraphs 1 through 62 of this CA/FO are incorporated by reference herein as though fully set forth at length.

64. Pursuant to 40 C.F.R. § 68.67(f), the owner or operator of a stationary source subject to Program 3 requirements must, at least every five years after the completion of an initial process hazard analysis ("PHA") required by 40 C.F. R. § 68.67(a), update and revalidate that PHA.

65. Respondent completed the initial PHA for the Culpeper WTP on or about April 15, 1999.

66. Respondent updated its PHA for the Culpeper WTP on March 30, 2004.

67. Pursuant to 40 C.F.R. § 68.67(f), Respondent was required to update and revalidate its PHA for the Culpeper WTP by or about March 30, 2009.

68. Respondent did not update and revalidate its PHA until or about March 17, 2010.

CONCLUSION OF LAW RELATED TO THE VIOLATION OF SECTION 112(r)(7) OF THE CAA AND 40 C.F.R. § 68.67(f) – FAILURE TO UPDATE AND REVALIDATE PROCESS HAZARD ANALYSIS

69. Respondent's failure to update and revalidate its PHA for the Culpeper WTP by March 17, 2010, is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.67(f), and is therefore subject to the assessment of penalties under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

FINDINGS OF FACT RELATED TO THE VIOLATION OF SECTION 112(r)(7) OF THE CAA AND 40 C.F.R. § 68.69(d) – FAILURE TO DEVELOP AND IMPLEMENT SAFE WORK PRACTICES

70. The findings of fact contained in paragraphs 1 through 69 of this CA/FO are incorporated by reference herein as though fully set forth at length.

71. Pursuant to 40 C.F.R. § 68.69(d), the owner or operator of a stationary source subject to Program 3 requirements shall develop and implement safe work practices for the control of hazards during operations such as lockout/tagout; confined space entry; opening process equipment or piping; and control over entrance into a stationary source by maintenance, contractor, laboratory, or other support personnel.

72. As the owner or operator of a stationary source with a process subject to Program 3 requirements, Respondent was required to develop and implement the safe work practices required by 40 C.F.R. § 68.69(d) upon the effective date of the CAPP Regulations on June 20, 1996.

73. Respondent failed to develop and implement the safe work practices required by 40 C.F.R. § 68.69(d) until or about March 18, 2010.

CONCLUSION OF LAW RELATED TO THE VIOLATION OF SECTION 112(r)(7) OF THE CAA AND 40 C.F.R. § 68.69(d) – FAILURE TO DEVELOP AND IMPLEMENT SAFE WORK PRACTICES

74. Respondent's failure to develop and implement safe work practices until or about March 18, 2010, is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.69(d), and is therefore subject to the assessment of penalties under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

FINDINGS OF FACT RELATED TO THE VIOLATION OF SECTION 112(r)(7) OF THE CAA AND 40 C.F.R. § 68.73(b) – FAILURE TO ESTABLISH AND IMPLEMENT WRITTEN PROCEDURES TO MAINTAIN MECHANICAL INTEGRITY OF EQUIPMENT

75. The findings of fact contained in paragraphs 1 through 74 of this CA/FO are incorporated by reference herein as though fully set forth at length.

76. Pursuant to 40 C.F.R. § 68.73(b), the owner or operator of a stationary source subject to Program 3 requirements shall establish and implement written procedures to maintain the ongoing integrity of process equipment.

77. As the owner or operator of a stationary source with a process subject to Program 3 requirements, Respondent was required to establish and implement written procedures to maintain the ongoing integrity of process equipment as required by 40 C.F.R. § 68.73(b) upon the effective date of the CAPP Regulations on June 20, 1996.

78. Respondent failed to establish and implement written procedures to maintain the ongoing integrity of the process equipment associated with its storage and use of chlorine until or about December 17, 2009.

CONCLUSION OF LAW RELATED TO THE VIOLATION OF SECTION 112(r)(7) OF THE CAA AND 40 C.F.R. § 68.73(b) – FAILURE TO ESTABLISH AND IMPLEMENT WRITTEN PROCEDURES TO MAINTAIN MECHANICAL INTEGRITY OF EQUIPMENT

79. Respondent's failure to establish and implement written procedures to maintain the ongoing integrity of the process equipment associated with its storage and use of chlorine until or about December 17, 2009, is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.73(b), and is therefore subject to the assessment of penalties under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

FINDINGS OF FACT RELATED TO THE VIOLATION OF SECTION 112(r)(7) OF THE CAA AND 40 C.F.R. § 68.75(a) – FAILURE TO ESTABLISH AND IMPLEMENT WRITTEN PROCEDURES TO MANAGE CHANGES

80. The findings of fact contained in paragraphs 1 through 79 of this CA/FO are incorporated by reference herein as though fully set forth at length.

81. Pursuant to 40 C.F.R. § 68.75(a), the owner or operator of a stationary source subject to Program 3 requirements shall establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures; and, changes to stationary sources that affect a covered process.

82. As the owner or operator of a stationary source with a process subject to Program 3 requirements, Respondent was required to establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures; and, changes to stationary sources that affect a covered process as required by 40 C.F.R. § 68.75(a) upon the effective date of the CAPP Regulations on June 20, 1996.

83. Respondent failed to establish and implement written procedures to manage changes related to its storage and use of chlorine until or about May 10, 2010.

CONCLUSION OF LAW RELATED TO THE VIOLATION OF SECTION 112(r)(7) OF THE CAA AND 40 C.F.R. § 68.75(a) – FAILURE TO ESTABLISH AND IMPLEMENT WRITTEN PROCEDURES TO MANAGE CHANGES

84. Respondent's failure to establish and implement written procedures to manage changes related to its storage and use of chlorine until or about May 10, 2010, is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.73(b), and is therefore subject to the assessment of penalties under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

FINDINGS OF FACT RELATED TO THE VIOLATION OF SECTION 112(r)(7) OF THE CAA AND 40 C.F.R. § 68.79(a), (c) and (e) – FAILURE TO PERFORM COMPLIANCE AUDITS AND DEVELOP AND RETAIN COMPLAINCE AUDIT REPORTS

85. The findings of fact contained in paragraphs 1 through 84 of this CA/FO are incorporated by reference herein as though fully set forth at length.

86. Pursuant to 40 C.F.R. § 68.79(a), the owner or operator of a stationary source subject to Program 3 requirements shall certify that it has evaluated compliance with 40 C.F.R. Part 68 at least every three years.

87. Pursuant to 40 C.F.R. § 68.79(c), a report of the findings of the compliance audit performed pursuant to 40 C.F.R. § 68.79(a) shall be developed.

88. In its 1999, 2005, and 2010 RM Plans, Respondent certifies that it completed compliance audits on or about April 15, 1999, February 3, 2005, and November 15, 2009.

89. Pursuant to 40 C.F.R. § 68.79(a), and based on Respondent's certification that it performed its first compliance audit on or about April 15, 1999, Respondent was required to perform compliance audits on or about the following dates: April 15, 2002; April 15, 2005; and April 15, 2008.

90. Pursuant to 40 C.F.R. § 68.75(c), the owner or operator shall retain the two most recent compliance audit reports prepared pursuant to 40 C.F.R. § 68.75(c).

91. Respondent has been unable to produce any compliance audit reports showing that any compliance audits were completed.

92. The absence of the compliance audit report for the purported February 3, 2005 compliance audit indicates that that compliance audit was not performed.

CONCLUSION OF LAW RELATED TO THE VIOLATION OF SECTION 112(r)(7) OF THE CAA AND 40 C.F.R. § 68.78(a), (c) and (e) – FAILURE TO PERFORM COMPLIANCE AUDITS AND DEVELOP AND RETAIN COMPLIANCE AUDIT REPORTS

93. Respondent's failure to perform a compliance audit in April 2005 and failure to develop and maintain compliance audit reports, is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.78(a), (c), and (e), and is therefore subject to the assessment of penalties under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

CIVIL PENALTY

94. In full and final settlement and resolution of all allegations referenced in the foregoing Findings of Fact and Conclusions of Law, and in full satisfaction of all civil penalty claims pursuant thereto, for the purpose of this proceeding, the Respondent consents to the assessment of a civil penalty for the violation of Section 103 of CERCLA, 42 U.S.C. § 9603, set forth above, in the amount of **$3,290.00** ("CERCLA civil penalty"), for the violations of Sections 304(a) and (b) and 304(c) of EPCRA, 42 U.S.C. §§ 11004(a) and (b) and 11004(c), and Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), set forth above, in the amount of **$24,130.00** ("EPCRA/CAA civil penalty").

SUPPLEMENTAL ENVIRONMENTAL PROJECT

95. 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.

96. Respondent agrees to install a sodium hypochlorite feed system to replace the existing chlorine gas feed system at the Culpeper WTP (the "SEP"). The SEP is described further in Respondent's Supplemental Environmental Project Proposal ("SEP Proposal"), attached hereto as Attachment A and incorporated herein by reference. Respondent shall complete installation of the feed system within 280 days of the effective date of this CA/FO.

97. Respondent's total expenditure for the SEP shall not be less than $105,400.00 for completion of the project, as described in Paragraph 96. The SEP has been valued at $164,247.00, pursuant to EPA's Project Model. The SEP has been accepted by EPA as part of this settlement. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described in Paragraph 100 below.

98. Respondent hereby certifies that, as of the date of this CA/FO, 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.

99. Respondent shall complete the SEP within 280 days of the effective date of this CA/FO. Respondent shall notify EPA, c/o Allison F. Gardner at the address noted in Paragraph 100, 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 96 and this paragraph. Request for any extension must be made in writing within 48 hours of any event, 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 requests should be directed to Allison F. Gardner at the address noted in Paragraph 100, below.

100. SEP Completion Report

a. Respondent shall submit a SEP Completion Report to EPA, c/o Allison F. Gardner (3RC42), at 1650 Arch Street, Philadelphia, Pennsylvania 19103, within fourteen (14) days of completing the SEP as set forth in Paragraphs 96 and 99. The SEP Completion Report shall contain the following information:

(i) A 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, by its officers, sign the report required by this Paragraph 100 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.

c. Respondent agrees that failure to submit the report required by this Paragraph 100 shall be deemed a violation of this CA/FO and, in such an event, Respondent will be liable for stipulated penalties pursuant to Paragraph 102 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 the report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph 100, "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.

101. 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 102 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 the SEP is not completed as contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Paragraphs 102 and 104 herein.

102. Stipulated Penalties

a. In the event that Respondent spends less than 90 percent of the estimated costs of the SEP as set forth in Attachment A, Respondent shall pay a stipulated penalty to EPA in the amount of $10,977.00.

b. In the event that Respondent fails to fully implement the SEP by the completion date set forth in Paragraphs 96 and 99 above, and as otherwise required by this CA/FO, Respondent shall pay a stipulated penalty to EPA in the amount of $110,723.00 (the "SEP Credit Amount").

c. If the SEP is not completed in accordance with Paragraphs 96 through 99, but the EPA determines that the Respondent: (1) made good faith and timely efforts to complete the project; and (2) 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.

d. In the event that Respondent fails to submit the SEP Completion Report required by Paragraph 100 above, Respondent shall pay a stipulated penalty in the amount of $250.00 for each day after the report was originally due until the report is submitted.

e. The determinations 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.

f. Respondent shall pay stipulated penalties in accordance with the provisions of Paragraphs 104 and 105 below, not more than fifteen days after receipt of written demand by EPA for such penalties. Interest and late charges shall be paid as set forth in Paragraphs 107 through 110 below.

103. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.

PAYMENT TERMS

104. 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 CERCLA civil penalty of $3,290.00 and EPCRA/CAA civil penalty of $24,130.00, no later than thirty (30) days after the effective date of the Final Order (the "final due date") by cashier's check, certified check, or electronic wire transfer. Payment of the CERCLA civil penalty and EPCRA/CAA civil penalty shall be made in the following manner:

a. All payments by Respondent shall reference Respondent's name and address, and the Docket Numbers of this action;

b. All checks for the CERCLA civil penalty shall be made payable to **EPA-Hazardous Substances Superfund**; all checks for the EPCRA/CAA civil penalty shall be made payable to **United States Treasury**;

c. All payments for the CERCLA civil penalty made by check and sent by regular mail shall be addressed to:

U.S. EPA
ATTN: Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

d. All payments for the EPCRA/CAA civil penalty made by check and sent by regular mail shall be addressed to:

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

e. All payments for the CERCLA civil penalty made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. EPA
ATTENTION: Superfund Payments
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

f. All payments for the EPCRA/CAA civil penalty made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. EPA
Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

g. 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

h. 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

i. 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

j. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

k. Additional payment guidance is available at:

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

105. The Respondent shall submit proof of the penalty payment, noting the title and docket numbers of this case, to the following persons:

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

and

Allison F. Gardner (3RC42)
Senior Assistant Regional Counsel
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

106. The CERCLA and EPCRA/CAA civil penalties stated herein are based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 109 of CERCLA, 42 U.S.C. § 9609, the penalty criteria set forth in Section 325 of EPCRA, 42 U.S.C. § 11045, the penalty criteria set forth in Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), and are consistent with 40 C.F.R. Part 19, EPA's *Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act*, dated September 30, 1999, and EPA's *Combined Enforcement Policy for Section 112(r) of the Clean Air Act,* dated August 15, 2001.

107. 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 in this CA/FO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

108. Interest on the civil penalties 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. However, EPA will waive interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. 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).

109. 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 2 of EPA's Resources 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.

110. A penalty charge of six (6) 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).

111. Failure by the Respondent to pay the $3,290.00 CERCLA civil penalty and the $24,130.00 EPCRA/CAA civil penalty assessed by the Final Order in full by the final due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609, Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

GENERAL PROVISIONS

112. For the purpose of this proceeding, Respondent admits to the jurisdictional allegations set forth above.

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

114. For the purpose of this proceeding, and with the exception of Paragraph 112, above, Respondent neither admits nor denies factual allegations or conclusions of law set forth in this Consent Agreement, but expressly waives its rights to contest said allegations.

115. For the purpose of this proceeding, Respondent expressly waives its right to a hearing and to appeal the Final Order under Section 109 of CERCLA, 42 U.S.C. § 9609, Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 113 of the CAA, 42 U.S.C. § 7413.

116. 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 Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

117. This CA/FO resolves only those civil claims which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant 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.

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

FOR TOWN OF CULPEPER:

SIGNATURE

4-10-12
DATE

Name: Kimberly L. Alexander

Title: Town Manager

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Ronald J. Borsellino, Director
Hazardous Site Cleanup Division

April 25, 2012
DATE

Town of Culpeper, Virginia

Supplemental Environmental Project Proposal

February 10, 2012

1. Supplemental Environmental Project Description

The proposed Supplemental Environmental Project is the installation of a sodium hypochlorite feed system to replace the existing gas chlorine feed system at the Culpeper Water Purification Facility. Major components of this system include bulk storage tanks, day tank, transfer pumps, pump feed skid, air compressor and a shelter. Miscellaneous equipment includes piping, wiring, heating, ventilation, spill containment, safety equipment and controls. This project has been designed in a very cost effective manner utilizing existing facilities and in-house personnel where possible. This project was approved for construction by the Virginia Department of Health on December 12, 2011 and is scheduled for approval by Town Council on February 14, 2012.

2. Nexis with the Alleged Violations

The project has an ideal nexis with the Risk Management Program and CERCLA/EPCRA notice violations alleged. The RMP requirements are currently applicable to the Water Purification Facility because of the presence of liquid and gaseous chlorine in excess of the RMP threshold quantity, which is 2500 pounds. 68 CFR § 68.130 Table 1. Removal of chlorine from the facility will thereby mitigate all of the risk, at least as to elemental chlorine, that the RMP addresses, and it will mitigate all of the risks addressed by the RMP legal requirements which EPA alleges to have been violated. In addition to the removal of elemental chlorine from the facility, there are and will be no other chemicals present at or above their RMP threshold quantity, thereby leaving the Town and the community with a more safe facility in terms of the risks that the RMP addresses.

The project also has an excellent nexis with the CERCLA/EPCRA notice violations alleged as to the 2008 chlorine release at the Wastewater Treatment Plant (WWTP). Although the SEP addresses the Water Purification Plant rather than the WWTP, the risks posed by use of chlorine were similar at both facilities. The Town replaced the WWTP use of chlorine for disinfection with UV light disinfection several years ago.

3. SEP Policy Category

The SEP category is Pollution Prevention because the Project will eliminate the use and presence of elemental chlorine at the Water Purification Facility and thereby eliminate the human health

and pollution risks posed by that chemical. The replacement disinfection chemical, sodium hypochlorite, is much less toxic and much less volatile.

4. Project Costs

A. Capital – The capital cost to construct these improvements is estimated to be at least $105,400.

B. Annual Operating Costs – Annual operating costs are anticipated to increase by $12,650 per year based on the anticipated FY13 chlorine gas cost of $0.30 per pound and sodium hypochlorite cost of $0.85 per pound equivalent and an anticipated usage of 23,000 pounds [23,000 x (0.85 – 0.30) = plus $12,650].

C. Savings – No savings are anticipated as a result of this project.

5. Benefits to Public Health and the Environment

The public health and environmental benefits of the Project are that it will entirely eliminate the use and presence of elemental chlorine at the Water Purification Facility. This is particularly important since this facility has experienced residential growth around the facility. The elimination of chlorine will thereby eliminate the risks inherent in the use of that chemical.

Hypochlorite System Cost Estimate

	Number	Unit	Total
4200 gal tank	2	$ 18,500.00	$ 37,000.00
250 gal day tank	1	$ 890.00	$ 890.00
Transfer Pumps	2	$ 1,217.50	$ 2,435.00
3 pump feed skid	1	$ 24,143.00	$ 24,143.00
Piping	500	$ 2.50	$ 1,250.00
Degassers	6	$ 300.00	$ 1,800.00
Flexible Connectors	2	$ 300.00	$ 600.00
Containment	1	$ 1,000.00	$ 1,000.00
HVAC	1	$ 827.63	$ 827.63
Level Sensors	3	$ 1,847.50	$ 5,542.50
Water Supply Piping	300	$ 2.50	$ 750.00
Emergency Shower	1	$ 574.99	$ 574.99
Valves	10	$ 298.00	$ 2,980.00
Actuated Valve	2	$ 800.00	$ 1,600.00
Electrical Work	1	$ 1,000.00	$ 1,000.00
SCADA	1	$ 10,000.00	$ 10,000.00
Air Compressor	1	$ 6,000.00	$ 6,000.00
Shelter	1	$ 2,500.00	$ 2,500.00
Gravel	1	$ 250.00	$ 250.00
Labor	170	$ 25.00	$ 4,250.00
Sub Total			$ 105,393.12
Annual Cost Difference			$ 12,650.00

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

In the Matter of:	)	
	)	
Town of Culpeper	)	**EPA Docket Nos.: CERCLA-03-2012-0139**
400 South Main Street, Suite 101	)	**EPCRA-03-2012-0139**
Culpeper, Virginia	)	**CAA-03-2012-0139**
22701,	)	
	)	
Respondent.	)	
	)	
Town of Culpeper Water	)	**Proceedings Pursuant to Sections 103 and**
Pollution Control Facility	)	**109 of the Comprehensive Environmental**
15108 Service Lane	)	**Response, Compensation, and Liability Act,**
Culpeper, Virginia	)	**42 U.S.C. §§ 9603, 9609, Sections 304**
22701,	)	**and 325 of the Emergency Planning and**
	)	**Community Right-to-Know Act, 42 U.S.C.**
and	)	**§§ 11004, 11045, and Sections 112(r)(7) and 113(d)**
	)	**of the Clean Air Act, as amended, 42 U.S.C.**
Culpeper Water Treatment	)	**§§ 7412(r)(7), 7413(d)**
Facility	)	
816 Woodview Road	)	
Culpeper, Virginia	)	
22701,	)	
	)	
Facilities.	)	
	)	

FINAL ORDER

Pursuant to Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9609, Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045, Section 113 of the Clean Air Act, as amended ("CAA"), 42 U.S.C. § 7413, and in accordance with 40 C.F.R. Part 22, and based on the representations in the Consent Agreement, having determined that the penalty agreed to in the Consent Agreement is based on a consideration of the factors set forth in Section 109 of CERCLA, 42 U.S.C. § 9609, Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), 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.

Renée Sarajian

Renée Sarajian
Regional Judicial Officer
EPA, Region III

5/9/12
DATE

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

In the Matter of:	)	
	)	
Town of Culpeper	)	**EPA Docket Nos.: CERCLA-03-2012-0139**
400 South Main Street, Suite 101	)	**EPCRA-03-2012-0139**
Culpeper, Virginia	)	**CAA-03-2012-0139**
22701,	)	
	)	
Respondent.	)	
	)	
Town of Culpeper Water	)	
Pollution Control Facility	)	
15108 Service Lane	)	
Culpeper, Virginia	)	**Consent Agreement and Final Order**
22701,	)	
	)	
and	)	
	)	
Culpeper Water Treatment	)	
Facility	)	
816 Woodview Road	)	
Culpeper, Virginia	)	
22701,	)	
	)	
Facilities.	)	
	)	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of the signed Consent Agreement and Final Order with the Regional Hearing Clerk, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that true and correct copies of the Consent Agreement and Final Order were sent by first class mail to:

Richard H. Sedgley, Esq.
AquaLaw
6 South 5th Street
Richmond, Virginia 23219

5/14/12
DATE

Allison F. Gardner (3RC42)
Senior Assistant Regional Counsel
Counsel for Complainant
(215) 814-2631