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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
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In the Matter of:)	U.S. EPA Docket No.
)	CERCLA/EPCRA-03-2015-0026
)	
BleachTech, LLC)	
350 Ryan Road)	Proceedings Pursuant to Sections 103
Seville, Ohio 44273,	)	and 109 of the Comprehensive
	)	Environmental Response,
Respondent.	)	Compensation and Liability Act, 42
	)	U.S.C. §§ 9603 and 9609, and Sections
BleachTech, LLC	)	304, 312 and 325 of the Emergency
2020 Bessemer Road	)	Planning and Community Right-to-
Petersburg, Virginia 23805,	)	Know Act, 42 U.S.C. §§ 11004, 11022,
	)	and 11045
Facility.)	

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 ("CERCLA"), 42 U.S.C. § 9609, as delegated to the Administrator of the U.S. Environmental Protection Agency ("EPA") and under the authority vested in the Administrator of EPA by Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045, and 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 Administrator has delegated these authorities to the Regional Administrator of EPA, Region III, who has in turn delegated them to the Director, Hazardous Site Cleanup Division, EPA Region III ("Complainant").

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.

JURISDICTION

1. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. §§ 22.1(a)(7) and 22.1(a)(8).
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, Respondent admits to the jurisdictional allegations in this Consent Agreement and agrees not to contest jurisdiction with respect to the execution or enforcement of this Consent Agreement.
4. With the exception of Paragraph 3, above, for the purpose of this proceeding, Respondent neither admits nor denies the factual allegations or conclusions of law set forth in this Consent Agreement, but expressly waives its rights to contest said allegations.

FACTUAL ALLEGATIONS

5. Respondent BleachTech, LLC (“Respondent”) is a corporation with a principal place of business located at 350 Ryan Road, Seville, Ohio, 44273.
6. As a corporation, 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), and their respective regulations, 40 C.F.R. §§ 302.3 and 355.61.
7. At all times relevant to this CA/FO, Respondent has been in charge of the sodium hypochlorite manufacturing facility located at 2020 Bessemer Road, in Petersburg, Virginia, 23805 (“Facility”), within the meaning of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and has been the owner or operator of the Facility, within the meaning of Section 304 of EPCRA, 42 U.S.C. § 11004.
8. The Facility is a “facility” as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and their respective regulations, 40 C.F.R. §§ 302.3 and 355.61.
9. On February 5, 2013, EPA (through its contractor Chenega Global Services, LLC) conducted an inspection of the Facility in response to a release of chlorine that was reported to have occurred on or around June 26, 2012. The purpose of the inspection was to investigate Respondent’s compliance with the emergency release reporting requirements of Section 103 of CERCLA and Section 304 of EPCRA and the right-to-know requirements of Sections 302-312 of EPCRA, 42 U.S.C. §§ 11002-11022.
10. On July 23, 2013, EPA sent Respondent an Information Request letter, pursuant to CERCLA Section 104(e), 42 U.S.C. § 9604(e), inquiring about two reported releases, one of chlorine on or around February 1, 2012, and the other of sodium hypochlorite on or around May 16, 2012, at the Facility. Respondent submitted its response to the Information Request on August 5, 2013.

11. On October 23, 2013, EPA sent a second Information Request inquiring about three other reported releases, two releases of sodium hypochlorite on or around August 9, 2013 and September 17, 2013, and one release of chlorine on or around September 21, 2013. Respondent submitted its response to the second Information Request on November 14, 2013.

12. Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), requires the Administrator of the 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 is codified at 40 C.F.R. § 302.4.

13. 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.

14. The State Emergency Response Commission (“SERC”) for the Facility is, and at all times relevant to this CA/FO has been, the Virginia Department of Environmental Quality, located at 629 East Main Street, Richmond, Virginia, 23219.

15. The Local Emergency Planning Committee (“LEPC”) for the Facility is, and at all times relevant to this CA/FO has been the City of Petersburg LEPC/Fire Department, Fire Administration, 125 North Union Street, Petersburg, Virginia, 23803.

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

17. On February 1, 2012, 94 pounds of chlorine (Chemical Abstract Service (“CAS”) Registry No. 7782-50-5) was released from the Facility (the “February 1, 2012 Release”)

18. On or about May 16, 2012, 1,454 pounds of sodium hypochlorite (CAS No. 7681-52-9) was released from the Facility (the “May 16, 2012 Release”).

19. On June 26, 2012, 227.45 pounds of chlorine was released from the Facility (the “June 26, 2012 Release”).

20. On September 21, 2013, 233 pounds of chlorine was released from the Facility (the “September 21, 2013 Release”).

EPA’S FACTUAL ALLEGATIONS RELATED TO THE VIOLATIONS OF SECTION 103(a) OF CERCLA

21. The factual allegations contained in Paragraphs 5 through 20 of this CA/FO are incorporated by reference herein as though fully set forth herein.

22. 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.

23. The chemical 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.

24. The chemical sodium hypochlorite 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 100 pounds, as listed in 40 C.F.R. § 302.4.

25. The February 1, 2012 Release, the May 16, 2012 Release, the June 26, 2012 Release, and the September 21, 2013 Release (collectively, the “Releases”), from the Facility each constitute 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).

26. None of the Releases was 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).

February 1, 2012 Release

27. Respondent first became aware that a release of chlorine was occurring at approximately 8:24 a.m. on February 1, 2012. The release was terminated at approximately 8:25 a.m. the same day. Sometime in the afternoon of the same day, Respondent conducted calculations, and determined that the amount of chlorine from the release exceeded the RQ for chlorine. Respondent has indicated to EPA that the Facility has no record of notification to the NRC of the February 1, 2012 Release.

28. 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 at the Facility in an amount equal to or exceeding the applicable RQ, as required by Section 103 of CERCLA, 42 U.S.C. § 9603, and 40 C.F.R. § 302.6.

May 16, 2012 Release

29. Respondent first became aware that a release of sodium hypochlorite was occurring at approximately 8:16 p.m. on May 16, 2012. The release was terminated at approximately 8:23 p.m. the same day. At 10:21 p.m., sodium hypochlorite began releasing again when the glue joint on the newly installed ball valve failed. The release terminated at 10:23 p.m. the same day. The following day, May 17, 2012 at 9:30 a.m., Respondent sampled the material released, and afterward Respondent completed calculations and determined that the amount of sodium hypochlorite from the release exceeded the RQ for sodium hypochlorite.

Respondent has indicated to EPA that the Facility has no record of notification to the NRC of the May 16, 2012 Release.

30. Respondent failed to immediately notify the NRC of the May 16, 2012 Release as soon as Respondent knew or should have known that a release of a hazardous substance had occurred at the Facility in an amount equal to or exceeding the applicable RQ, as required by Section 103 of CERCLA, 42 U.S.C. § 9603, and 40 C.F.R. § 302.6.

June 26, 2012 Release

31. Respondent first became aware that a release of chlorine was occurring at approximately 10:34 p.m., on June 26, 2012. The release was terminated at approximately 10:37 p.m. the same day. Respondent notified the NRC of the June 26, 2012 Release on June 28, 2012 at 8:26 a.m.

32. Respondent failed to immediately notify the NRC of the June 26, 2012 Release as soon as Respondent knew or should have known that a release of a hazardous substance had occurred at the Facility in an amount equal to or exceeding the applicable RQ, as required by Section 103 of CERCLA, 42 U.S.C. § 9603, and 40 C.F.R. § 302.6.

September 21, 2013 Release

33. Respondent first became aware that a release of chlorine was occurring at approximately 5:10 p.m. on September 21, 2013. The release was terminated at approximately 5:12 p.m. on the same day. Respondent notified the NRC of the September 21, 2013 Release on September 22, 2013 at 4:47 p.m.

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 at the Facility in an amount equal to or exceeding the applicable RQ, as required by Section 103 of CERCLA, 42 U.S.C. § 9603, and 40 C.F.R. § 302.6.

EPA's CONCLUSION OF LAW RELATED TO THE VIOLATIONS OF SECTION 103(a) OF CERCLA

35. Respondent's failure to immediately notify the NRC of each of the Releases constitutes four counts of violation of Section 103 of CERCLA, 42 U.S.C. § 9603. Respondent is, therefore, subject to the assessment of penalties under Section 109 of CERCLA, 42 U.S.C. § 9609.

EPA's FACTUAL ALLEGATIONS RELATED TO THE VIOLATIONS OF SECTION 304(a) OF EPCRA — SERC

36. The factual allegations contained in Paragraphs 5 through 35 of this CA/FO are incorporated by reference herein as though fully set forth at length.

37. Section 304(a) of EPCRA, 42 U.S.C. § 11004(a) as implemented by 40 C.F.R. Part 355, Subpart C, requires, in relevant part, the owner or operator of a facility at which

hazardous chemicals are produced, used, or stored to notify the SERC 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. The list of EHSs and their respective RQs is codified at 40 C.F.R. Part 355, Appendices A and B.

38. The chemical 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, with an RQ of 10 pounds, as listed in 40 C.F.R. Part 355, Appendices A and B.

39. The February 1, 2012 Release, the June 26, 2012 Release, and September 21, 2013 Release, all of chlorine from the Facility (collectively, "Chlorine Releases") required immediate notifications to the SERC pursuant to Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

40. Respondent did not notify the SERC of the February 1, 2012 Release until approximately 3:40 p.m. on February 1, 2012, more than 7 hours after the release occurred.

41. Respondent did not notify the SERC of the June 26, 2012 Release until June 27, 2012 around 12:00 p.m. approximately 13 hours after the release occurred.

42. Respondent did not notify the SERC of the September 21, 2013 Release until September 22, 2013 at approximately 4:53 p.m., more than 23 hours after the release occurred.

43. Respondent failed to immediately notify the SERC of the three Chlorine Releases as soon as Respondent knew that a release of a hazardous substance had occurred at the Facility in an amount equal to or exceeding its RQ, as required by Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), and 40 C.F.R. Part 355, Subpart C.

**EPA'S CONCLUSION OF LAW RELATED TO THE
VIOLATIONS OF SECTION 304(a) OF EPCRA — SERC**

44. Respondent's failures to notify the SERC immediately of each of the three Chlorine Releases are violations of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a). Respondent is, therefore, subject to the assessment of penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b).

**EPA'S FACTUAL ALLEGATIONS RELATED TO THE VIOLATIONS
OF SECTION 304(a) OF EPCRA — LEPC**

45. The factual allegations contained in Paragraphs 5 through 44 of this CA/FO are incorporated by reference herein as though fully set forth at length.

46. Section 304(a) of EPCRA, 42 U.S.C. § 11004(a) as implemented by 40 C.F.R. Part 355, Subpart C, requires, in relevant part, the owner or operator of a facility at which hazardous chemicals are produced, used, or stored to notify the 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. The list of EHSs and their respective RQs is codified at 40 C.F.R. Part 355, Appendices A and B.

47. The Chlorine Releases from the Facility each required immediate notification to the LEPC pursuant to Section 304(a)(3) of EPCRA, 42 U.S.C. § 11004(a).

48. Respondent did not notify the LEPC of the February 1, 2012 Release until approximately 3:40 p.m. on February 1, 2012, more than 7 hours after the release occurred.

49. Respondent did not notify the LEPC of the June 26, 2012 Release until June 27, 2012 around 12:00 p.m., approximately 13 hours after the release occurred.

50. Respondent did not notify the LEPC of the September 21, 2013 Release until September 22, 2013 around 4:55 p.m., more than 23 hours after the release occurred.

51. Respondent failed to immediately notify the LEPC of the three Chlorine Releases as soon as Respondent knew that a release of a hazardous substance had occurred at the Facility in an amount equal to or exceeding its RQ, as required by Section 304(a) of EPCRA, 42 U.S.C. § 11004(a) and 40 C.F.R. Part 355, Subpart C.

EPA'S CONCLUSION OF LAW RELATED TO THE VIOLATIONS OF SECTION 304(a) OF EPCRA — LEPC

52. Respondent's failures to notify the LEPC immediately of each of the three Chlorine Releases are violations of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a). Respondent is, therefore, subject to the assessment of penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b).

EPA'S FACTUAL ALLEGATIONS RELATED TO THE VIOLATIONS OF SECTION 312 OF EPCRA — FAILURE TO SUBMIT ACCURATE HAZARDOUS CHEMICAL FORMS TO SERC, LEPC AND LOCAL FIRE DEPARTMENT

53. The factual allegations contained in Paragraphs 5 through 52 of this CA/FO are incorporated by reference herein as though fully set forth at length.

54. Respondent is required to have an MSDS at its Facility for each hazardous chemical it uses, pursuant to 29 C.F.R. § 1910.1200(g).

55. Section 312 of EPCRA, 42 U.S.C. § 11022, as implemented by 40 C.F.R. Part 370, requires the owner or operator of a facility required to prepare or have available an MSDS for a hazardous chemical in accordance with OSHA's Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200, and at which facility a hazardous chemical (including, but not limited to, a hazardous chemical which also qualifies as an EHS) is present at any one time during a calendar year in a quantity equal to or greater than its applicable minimum threshold level for reporting ("MTL") or threshold planning quantity ("TPQ") established by 40 C.F.R. § 370.10 to submit on or before March 1, 1988, and by March 1st of each year thereafter, a completed Emergency and Hazardous Chemical Inventory Form ("Chemical Inventory Form") identifying the hazardous chemical and providing the information described in Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), to the appropriate SERC, LEPC, and local fire department with jurisdiction over the facility.

56. Section 312(d) of EPCRA 42 U.S.C. § 11022(d), and its implementing regulations at 40 C.F.R. Part 370, establish reporting requirements for providing the public with important information on the hazardous chemicals in their communities. The reporting requirements established under this part consist of Material Safety Data Sheet (MSDS) reporting and accurate inventory reporting by the owner or operator of a facility at which hazardous chemicals are produced, used, or stored.

57. During the years 2010 and 2011, Respondent stored the following 12 hazardous chemicals in quantities greater than the applicable MTL or TPQ:

EHS/Hazardous Substance	Threshold (pounds)	Maximum Storage Quantity (pounds)	
		2010	2011
Chlorine	100	365	365
Diesel Oil	10,000	14,400	14,400
Hydrochloric Acid	10,000	4,000,000	4,000,000
Nitrogen	10,000	20,202	20,202
Oils	10,000	22,260	22,260
Soda Ash	10,000	70,000	70,000
Sodium Chloride	10,000	2,500,000	2,500,000
Sodium Hydroxide	10,000	2,992,000	2,992,000
Sodium Hypochlorite	10,000	3,400,000	3,400,000
Sodium Sulfite	10,000	56,750	56,750
Solka-Floc	10,000	12,900	12,900
Sulfuric Acid (contained in batteries)	500	747	747

58. Respondent's chemical inventory forms for calendar years 2010 and 2011, submitted to the SERC, LEPC and the local fire department, failed to report the following nine chemicals stored at the Facility in a quantity exceeding the MTL or TPQ: chlorine, diesel oils, nitrogen, oils, soda ash, sodium chloride, sodium sulfite, Solka-Floc and sulfuric acid.

59. Respondent violated Section 312(d) of EPCRA 42 U.S.C. § 11022(d), and its implementing regulations at 40 C.F.R. Part 370, for its failure to submit complete and accurate

chemical inventory forms to the SERC, LEPC and local fire department for calendar years 2010 and 2011.

**EPA'S CONCLUSION OF LAW RELATED TO THE
VIOLATIONS OF SECTION 312 OF EPCRA — FAILURE TO SUBMIT
ACCURATE HAZARDOUS CHEMICAL FORMS TO SERC, LEPC AND
LOCAL FIRE DEPARTMENT**

60. Respondent's failures to submit complete and accurate chemical inventory forms to the SERC, LEPC and local fire department for calendar years 2010 and 2011, are violations of Section 312(d) of EPCRA 42 U.S.C. § 11002(d), and its implementing regulations at 40 C.F.R. Part 370. Respondent is, therefore, subject to the assessment of penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b).

SETTLEMENT

61. 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 violations of Section 103 of CERCLA, 42 U.S.C. § 9603, Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), and Section 312(d) of EPCRA, 42 U.S.C. § 11002(d), set forth above, in the amount of \$150,000, consisting of \$54,690 for the CERCLA penalty and \$ 95,310 for the EPCRA penalty.

62. 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

63. 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.

64. Respondent agrees to undertake a SEP to purchase and install track pans at each of its eight (8) rail loading stations at the Facility, to mitigate the potential of spilling hazardous chemicals into the environment during loading and unloading operations, and to maintain the system for a period of no less than five (5) years. The SEP is described further in the Description of Project, attached hereto as Attachment A, and incorporated herein by reference. Respondent shall complete the construction of the project within one hundred twenty days (120) of the effective date of this CA/FO. Respondent shall complete the SEP after five (5) years of providing maintenance of the project ("SEP Completion Deadline").

65. Respondent's total expenditure for the SEP shall be: a one-time capital expenditure of \$75,000, and a recurring expense of \$7,000 per year, for a five-year period, for a total cost of \$110,000, in accordance with the specifications set forth in the Attachment A.

66. 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.

67. 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.

68. 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 64 and, if extensions are granted, by this Paragraph. Requests for any extension must be made in writing within 3 business days of when Respondent had knowledge of any event, such as an unanticipated delay in obtaining governmental approvals or extreme weather conditions, the occurrence of which renders the Respondent unable to complete the SEP within the required time frame ("force majeure event"), and prior to the expiration of the allowed SEP Completion Deadline. Any such requests should be directed to Anne Gilley, at the address noted in Paragraph 69 below.

69. SEP Reports

a. Within fourteen (14) days of completing the construction of the Project, as specified in Paragraph 64 and in Attachment A, Respondent shall submit to EPA a report ("Construction Completion Report") via first class mail to Anne Gilley, U.S. EPA Region III, 1650 Arch Street (Mailcode 3HS61), Philadelphia, PA 19103, and via email to gilley.anne@epa.gov. The Construction Completion Report shall contain the following information:

- (i) description of the project as implemented;
- (ii) photographs of the installed eight (8) track pans, the Star Track System, the PVC Manifold Collector Systems, the Drainage Main, the 440-Gallon Sump Tank;
- (iii) a description of any problems encountered and the solution thereto; and
- (iv) itemized costs, including invoices.

b. Within 365 days of EPA's written notification to Respondent that the SEP construction has been satisfactorily completed in accordance with Paragraph 70.a, and annually for four years thereafter, Respondent shall submit to EPA a yearly Maintenance Report, including costs incurred, as specified in paragraph and in Attachment A, via first class mail and email to Anne Gilley, at the addresses above documenting that Respondent has incurred at least \$7,000 each year to maintain the SEP as set forth in Paragraphs 64 and 65.

c. Respondent shall sign the reports required by this Paragraph and certify under penalty of law that the information contained therein is true, accurate, and not misleading by including and signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

d. Respondent agrees that failure to submit reports required by this Paragraph 69 shall be deemed a violation of this CA/FO and, in such an event, Respondent will be liable for stipulated penalties pursuant to Paragraph 71 below.

e. In itemizing its costs, and in providing proof of the expenses incurred, 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, "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.

70. EPA Acceptance of Construction Completion Report and Maintenance Reports

a. Upon receipt of the Construction 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 construction of 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 71, below.

b. Upon receipt of each Maintenance Completion Report, EPA may exercise one of the following options:

- (i) notify the Respondent in writing that the SEP Maintenance 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 the maintenance has been satisfactorily completed; or
- (iii) notify the Respondent in writing that EPA has concluded that maintenance has not been satisfactorily completed, and seek stipulated penalties in accordance with Paragraph 71, below.

c. If EPA elects to exercise option (i) in Paragraphs 70.a or 70.b, above, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency within ten (10) business 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 71, below.

71. Stipulated Penalties

a. In the event that Respondent fails to comply with any of the terms or provisions of this Consent Agreement relating to the performance of the SEP described in Paragraphs 64 and 65 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 65, above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- (i) Except as provided in subparagraph (iii) below and Paragraph 65, 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 \$1,000 per day until such time as the SEP is completed, up to a maximum amount of \$63,660.
- (ii) If the SEP is not completed in accordance with Paragraph 65, but 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 65, 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 \$6,366.00.

- (iv) If the SEP is completed in accordance with Paragraph 65 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 Construction Completion Report required by Paragraph 70, 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.
- (vi) For failure to submit any yearly Maintenance Report required by Paragraph 70, above, Respondent shall pay a stipulated penalty in the amount of \$100.00 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 72 and 73 below. Interest and late charges shall be paid as set forth in Paragraphs 76-82, below.

Payment Terms

72. 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 \$54,690 and the EPCRA civil penalty of \$95,310 no later than thirty (30) days after the effective date of the Final Order (the "Final Due Date") by either cashier's check, certified check, or electronic wire transfer, as set forth in the following paragraphs.

73. Payment of the CERCLA civil penalty shall be made in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, CERCLA/EPCRA-03-2015-0026;
- b. All checks shall be made payable to **EPA-Hazardous Substances Superfund;**
- c. All payments 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
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. EPA
ATTENTION: Superfund Payments
U.S. Bank 1005 Convention Plaza
Mail Station SL-MO-C2GL
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

74. Payment of the EPCRA civil penalty shall be made in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, CERCLA/EPCRA-03-2015-0026;
- 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. EPA
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. EPA
Fines and Penalties
U.S. Bank 1005 Convention Plaza
Mail Station SL-MO-C2GL
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>

75. The civil penalty stated herein is based upon Complainant's consideration of a number of factors, including, but not limited to, the following: the nature, circumstances, extent and gravity of the violation, and with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit (if any) resulting from the violation, and such matters as justice may require. The penalty is consistent with 40 C.F.R. Part 19 and the 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 (September 30, 1999).

76. 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 of the civil penalty or stipulated penalty shall result in the assessment of late payment charges including additional interest, penalties, and/or administrative costs of handling delinquent debts.

77. Interest on the civil penalty will begin to accrue on the date that payment of the civil penalty is due as required by this CAFO, when fully executed, is mailed or hand-delivered to the Respondent ("Interest Accrual Date"). EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest on the portion of a civil penalty not paid within such thirty (30) calendar day period will be assessed at the rate of the U.S. Treasury Tax and Loan Rate in accordance with 40 C.F.R. § 13.11(a).

The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b).

78. 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 payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

79. A penalty charge of six percent per year will be assessed monthly on any portion of a payment that remains delinquent more than ninety (90) calendar days. 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. 31 C.F.R. § 901.9(d).

80. In order to avoid the assessment of administrative costs for overdue debts, as described above, Respondent must remit payment for the civil penalty in accordance with the payment deadline set forth above.

81. Failure by the Respondent to pay the CERCLA civil penalty and the EPCRA 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 penalties, plus interest, pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

82. Respondent shall submit a copy of the check (or, in the case of an EFT transfer, a copy of the EFT confirmation) to the following persons:

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

Lourdes del Carmen Rodriguez (3RC42)
Senior Assistant Regional Counsel
U.S. EPA, Region III
1650 Arch Street Philadelphia, PA
19103-2029

General Provisions

83. For the purpose of this proceeding, Respondent expressly waives its right to a hearing and to appeal the Final Order under Section 309 of CERCLA 42 U.S.C. § 9609, and 325 of EPCRA, 42 U.S.C. § 11045.

84. The provisions of the 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.

85. 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.

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

87. Whenever notifications, submissions, or communications are required in this CA/FO, they shall be made by email or in writing addressed as follows:

To the EPA

Anne Gilley
U.S. EPA Region III
1650 Arch Street (Mailcode 3HS61)
Philadelphia, PA 19103
gilley.anne@epa.gov

To Respondent

Richard Immerman
BleachTech LLC
19301 Shaker Blvd.
Cleveland, OH 44122
rlimmerman@gmail.com

88. EPA and Respondent may, by written notice, change its designated notice recipient or notice address provided above.

For the Respondent, BleachTech, LLC

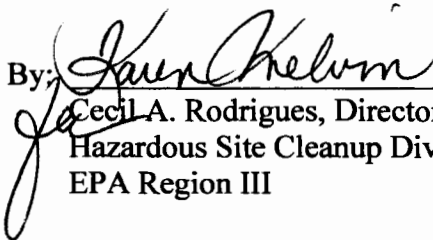
Date: 10-17-14

By: 

Name: Richard Immerman, Principal
BleachTech LLC
350 Ryan Road
Seville, Ohio 44273

For the Complainant, U.S. Environmental Protection Agency, Region III

Date: NOV 5 2014

By: 
Cecil A. Rodrigues, Director
Hazardous Site Cleanup Division
EPA Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street**

In the Matter of:	)	U.S. EPA Docket No.
	)	CERCLA/EPCRA-03-2015-0026
)	
Bleach Tech, LLC)	
350 Ryan Road	)	Proceedings Pursuant to Sections 103
Seville, Ohio 44273,	)	and 109 of the Comprehensive
	)	Environmental Response,
Respondent.	)	Compensation and Liability Act, 42
	)	U.S.C. §§ 9603 and 9609, and Sections
Bleach Tech, LLC	)	304, 312 and 325 of the Emergency
2020 Bessemer Road	)	Planning and Community Right-to-
Petersburg, Virginia 23805,	)	Know Act, 42 U.S.C. §§ 11004, 11022,
	)	and 11045
Facility.)	

FINAL ORDER

Pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11045, and Section 109 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") as amended, 42 U.S.C. § 9609, 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. Respondent is ordered to pay the **\$150,000.00** penalty, and implement the Supplemental Environmental Project, in accordance with the Consent Agreement and otherwise comply with the terms of the foregoing Consent Agreement.

The Effective Date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: 11-25-14



Heather Gray
Regional Judicial Officer

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

RECEIVED

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REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

In the Matter of:) **U.S. EPA Docket No.**
) **CERCLA/EPCRA-03-2015-0026**
)
BleachTech, LLC)
350 Ryan Road) **Proceedings Pursuant to Sections 103**
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) **U.S.C. §§ 9603 and 9609, and Sections**
BleachTech, LLC) **304, 312 and 325 of the Emergency**
2020 Bessemer Road) **Planning and Community Right-to-**
Petersburg, Virginia 23805,) **Know Act, 42 U.S.C. §§ 11004, 11022,**
) **and 11045**
Facility.)

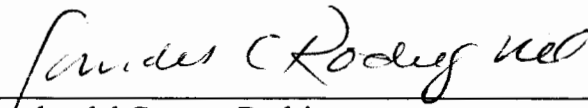
CERTIFICATE OF SERVICE

I hereby certify that the original and one copy of the foregoing Consent Agreement and Final Order ("CAFO") in the above-captioned matter have been filed with the EPA Region III Regional Hearing Clerk and that copies of the CAFO were sent via Overnight Mail to:

Mr. Ryan T. Bickmore
Hogan Lovells LLP
Columbia Square
555 Thirteenth Street, NW
Washington, D.C. 20004

I further certify that I have sent a copy of the CAFO by electronic pdf to Respondent's representative at ryan.bickmore@hoganlovells.com, on this day.

11/25/2014
Date


Lourdes del Carmen Rodriguez,
Senior Assistant Regional Counsel,
Office of Regional Counsel
U.S. Environmental Protection Agency, Region III