



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 12 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL 7009 1680 0000 7679 6446
RETURN RECEIPT REQUESTED

Mr. William Kraemer
President
The Kraemer Company, LLC
680 Bridge Road
Plain, Wisconsin 53577

Re: Consent Agreement and Final Order
The Kraemer Company, LLC
Docket No: RCRA-05-2015-0007

Dear Mr. Kraemer:

Enclosed please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed with the Regional Hearing Clerk on March 12, 2015.

Please pay the civil penalty in the amount of \$62,220 in the manner prescribed in paragraph 58 of the CAFO, and reference all checks with the docket number RCRA-05-2015-0007. Your payment is due within 30 calendar days of the effective date of the CAFO. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Gary J. Victorine".

Gary J. Victorine, Chief
RCRA Branch

Enclosures

cc: Mr. Steven Sisbach, WDNR – (steven.sisbach@wisconsin.gov)
Mr. Charles Sweeney, Axley Brynelson, LLP – (csweeney@axley.com)
Cathleen Martwick, C-14J

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. RCRA-05-2015-0007
)	
The Kraemer Company, LLC)	Proceeding to Commence and Conclude
680 Bridge Road)	an Action to Assess a Civil Penalty
Plain, Wisconsin 53577)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
U.S. EPA ID #: WIR000117010)	42 U.S.C. § 6928(a)
)	
Respondent.)	
<hr/>)	



Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. U.S. EPA provided notice of commencement of this action to the State of Wisconsin pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Respondent is The Kraemer Company, LLC ("Kraemer"), a limited liability corporation doing business in the State of Wisconsin.

5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6992k, and the regulations at 40 C.F.R. Parts 260 - 279.

Statutory and Regulatory Background

12. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste, pursuant to Sections 3001 – 3007 and 3013, among others, of RCRA, 42 U.S.C. §§ 6921 – 6927 and 6934.

13. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the

federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Wisconsin final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg. 3783 (January 31, 1986).

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both.

16. The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, U.S. EPA may assess a civil penalty of up to \$32,500 per day for each violation of Subtitle C of RCRA that occurred after March 15, 2004 through January 12, 2009, and may assess a civil penalty of up to \$37,500 per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

16. Respondent was and is a “person” as defined by WAC s. NR 660.10(90), 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent is an “owner” or “operator,” as those terms are defined by WAC ss. NR 660.10(87) and (88) and 40 C.F.R. § 260.10, of a facility located at 680 Bridge Road, Plain, Wisconsin 53577 (Facility).

18. At all times relevant to this Complaint, Respondent’s Facility consisted of land and structures, other appurtenances, and improvements on the land, used for industrial equipment repair and maintenance.

19. Respondent’s Facility is a “facility,” as that term is defined under WAC s. NR 660.10(43) and 40 C.F.R. § 260.10.

20. At all times relevant to this Complaint, Respondent utilized a welding process known as “hard rod/facing” to repair the milling hammer equipment the company uses to produce agricultural lime. The majority of the hard rod/facing process was conducted at several quarries owned by Respondent in western Wisconsin.

21. At all times relevant to this Complaint, the hard rod/facing process generated a waste welding slag referred to as “lime mill slag.”

22. At all times relevant to this Complaint, Respondent generated and accumulated the lime mill slag at its quarries in cubic yard totes. Respondent shipped the totes of lime mill slag to its Facility, where they were stored. Respondent would then ship the lime mill slag from its Facility for final disposal.

23. Respondent characterized its lime mill slag as D007 hazardous waste for chromium.

24. Respondent stored, transported, disposed of, or otherwise handled its lime mill slag in “containers” as that term is defined under WAC s. NR 660.10(14) and 40 C.F.R. § 260.10.

25. At all times relevant to this Complaint, Respondent’s lime mill slag was a “solid waste” as that term is defined under WAC s. NR 660.10(108) and 40 C.F.R. § 261.2.

26. At all times relevant to this Complaint, Respondent’s lime mill slag was a “hazardous waste” as that term is defined under WAC s. NR 660.10(52) and 40 C.F.R. § 261.3.

27. At all times relevant to this Complaint, Respondent’s holding of quarry-generated lime mill slag in cubic yard totes at its Facility constituted hazardous waste “storage,” as that term is defined under WAC s. NR 660.10(112) and 40 C.F.R. § 260.10.

28. Respondent is a “generator,” as that term is defined under WAC s. NR 660.10(50) and 40 C.F.R. § 260.10.

29. On February 26, 2013, U.S. EPA conducted a Compliance Evaluation Inspection of the Facility (the inspection).

30. On June 21, 2013, U.S. EPA issued a Request for Information to Respondent.

31. On July 12, 2013, Respondent submitted to U.S. EPA a written response to the Request for Information.

32. On November 15, 2013, U.S. EPA issued a Notice of Violation to Respondent alleging certain violations of RCRA discovered during the inspection.

33. On December 4, 2013, Respondent submitted to U.S. EPA a written response to the Notice of Violation.

34. On May 2, 2014, U.S. EPA issued a Pre-Filing Notice and Opportunity to Confer letter to Respondent identifying potential violations of RCRA and its potential penalty exposure.

35. At all times relevant to this Complaint, Respondent did not have a license or interim status to treat, store, or dispose of hazardous waste at its Facility pursuant to WAC s. NR 670 and section 3005 of RCRA, 42 U.S.C. § 6905.

Count 1: Storage of Hazardous Waste without a License or Interim Status

36. Complainant incorporates paragraphs 1 through 35 of this Complaint as though set forth in this paragraph.

37. Pursuant to 3005(a) of RCRA, 42 U.S.C. § 6925(a) and the regulations at WAC s. NR 670 [40 C.F.R. Part 270], the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a license or interim status is prohibited.

38. At all times relevant to this Complaint, Respondent accepted for storage at its Facility hazardous waste lime mill slag that was generated at off-site locations without obtaining or applying for a hazardous waste license or interim status.

39. By accepting hazardous waste lime mill slag from off-site locations and storing it at its Facility prior to disposal, Respondent became an operator of a hazardous waste storage facility.

40. Respondent's storage of hazardous waste without a license or interim status violated Section 3005 of RCRA, 42 U.S.C. § 6925(a) and the requirements of WAC s. NR 670.001(3) [40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13].

Count 2: Acceptance of Hazardous Waste without a Manifest

41. Complainant incorporates paragraphs 1 through 35 of this Complaint as though set forth in this paragraph.

42. As outlined in Count 1, Respondent operated as a hazardous waste storage facility without a license or interim status by accepting hazardous waste lime mill slag for storage at its Facility that was generated at off-site locations.

43. WAC s. NR 664.0076 [40 C.F.R. § 264.76] requires that the owner or operator of a hazardous waste storage facility may not accept hazardous waste from an off-site source without an accompanying manifest, unless it has prepared and submitted a report to the Wisconsin Department of Natural Resources (WDNR), and the EPA Regional Administrator, within 15 days after receiving the hazardous waste.

44. At the time of the inspection, Respondent did not have any hazardous waste manifests that displayed the shipment of the hazardous waste lime mill slag to Respondent's Facility.

45. At the time of inspection, Respondent had not submitted a report to the WDNR, or EPA Regional Administrator, that it had accepted hazardous waste for storage without a manifest.

46. Respondent's acceptance and storage of hazardous waste without a manifest and without submitting a report to the WDNR or EPA Regional Administrator violated WAC s. NR 664.0076 [40 C.F.R. § 264.76].

Count 3: Failure to Have an Adequate Contingency Plan

47. Complainant incorporates paragraphs 1 through 35 of this Complaint as though set forth in this paragraph.

48. As outlined in Count 1, Respondent operated as a hazardous waste storage facility without a license or interim status by accepting hazardous waste lime mill slag for storage at its Facility that was generated at off-site locations.

49. WAC s. NR 664.0051(1) [40 C.F.R. § 264.51(a)] requires owners and operators of hazardous waste storage facilities to have a contingency plan that contains, among other things, a description of arrangements agreed to by local authorities to coordinate emergency services, an evacuation plan for facility personnel, and list of emergency equipment available on site, as well as the location and brief descriptions of the equipment.

50. At all times relevant to this Complaint, Respondent did not have a contingency plan that contained a description of arrangements made with local authorities, an evacuation plan, or a list of emergency equipment with a description of its location or capabilities.

51. Respondent's failure to have an adequate contingency plan as described above violated the requirements for hazardous waste storage facilities in WAC s. NR 664.0051(1) [40 C.F.R. § 264.51(a)].

Count 4: Failure to Provide Personnel Training

52. Complainant incorporates paragraphs 1 through 35 of this Complaint as though set forth in this paragraph.

53. As outlined in Count 1, Respondent operated as a hazardous waste storage facility without a license or interim status by accepting hazardous waste lime mill slag for storage at its Facility that was generated at off-site locations.

54. WAC s. NR 664.0016 [40 C.F.R. § 264.16] requires owners and operators of hazardous waste storage facilities to provide its personnel a program of classroom instruction or on-the-job training within six months of initial hire, and annually thereafter, that is directed by a person trained in hazardous waste management that consists of, among other things, hazardous waste management procedures and contingency plan implementation.

55. At all times relevant to this Complaint, Respondent had not provided its employees with a training program that includes hazardous waste management procedures.

56. Respondent's failure to provide its employees with training in hazardous waste management procedures violated WAC s. NR 664.0016 [40 C.F.R. § 264.16].

Civil Penalty

57. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$62,220. In determining the penalty amount, Complainant took into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements and Respondent's agreement to perform a supplemental environmental project. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

58. Within 30 days after the effective date of this CAFO, Respondent must pay a \$62,220 civil penalty for the RCRA violations by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

For checks sent by regular U.S. Postal Service mail:
U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

For checks sent by express mail:
U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must state the case title and the docket number of this CAFO.

59. A transmittal letter stating Respondent's name, the case title and the case docket number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Brian Kennedy (LR-8J)
RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Cathleen Martwick (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

60. This civil penalty is not deductible for federal tax purposes.

61. If Respondent does not timely pay the civil penalty, or any stipulated penalties due under paragraph 76, below, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

62. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

Supplemental Environmental Project

63. Respondent must complete a supplemental environmental project (SEP) designed to protect the environment or public health by installing and operating the Dillman Reverse Pulse Baghouse, Unit 8672 to collect fine and coarse particulate generated by Respondent's Greyhawk Cage Mill Chassis, Unit 8671 and prevent particulate from being directly discharged to the air.

64. Respondent must complete the SEP as follows: install and operate the Dillman Reverse Pulse Baghouse, Unit 8672 in conjunction with and at all times that Respondent operates the Greyhawk Cage Mill Chassis, Unit 8671 for 24 months following the effective date of this CAFO.

65. Respondent must spend at least \$171,890 to purchase and install the Dillman Reverse Pulse Baghouse, Unit 8672.

66. Respondent must continuously use or operate its Dillman Reverse Pulse Baghouse, Unit 8672 in conjunction with and at all times that Respondent operates the Greyhawk Cage Mill Chassis, Unit 8671 for 24 months following the effective date of this CAFO.

67. Respondent certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

68. U.S. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

69. Respondent must submit five reports for 24 months following the filing of this CAFO. The First Report must be submitted 7 calendar days after the effective date of this CAFO and contain the following information:

- a. Detailed description of the installation of the Dillman Reverse Pulse Baghouse, Unit 8672;
- b. Itemized costs of goods and services used to complete the installation of the Dillman Reverse Pulse Baghouse, Unit 8672 documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services; and
- c. Certification that Respondent has completed the installation of the Dillman Reverse Pulse Baghouse, Unit 8672 in compliance with this CAFO by a responsible corporate officer.

70. Respondent must submit biannual reports every six months following the effective date of this CAFO. The Second Report will be due 6 months after the effective date of this CAFO. The Third Report will be due 12 months after the effective date of this CAFO. The Fourth Report will be due 18 months after the effective date of this CAFO. The Second, Third and Fourth Reports must contain the following information:

- a. Itemized list of costs incurred to operate the Dillman Reverse Pulse Baghouse, Unit 8672 in the last 6 months documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs incurred including but not limited to fuel and additional related transportation costs, maintenance costs, including but not limited to necessary repairs, upkeep, and filter bag replacement as needed;
- b. List of the location(s), dates and hours Respondent operated the Dillman Reverse Pulse Baghouse, Unit 8672 and a list of the location(s), date and hours Respondent operated the Greyhawk Cage Mill Chassis, Unit 8671 in the last 6 months;
- c. Description of any operating problems for the Dillman Reverse Pulse Baghouse, Unit 8672 and the actions taken to correct the problems in the last 6 months; and
- d. Certification that Respondent operated the Dillman Reverse Pulse Baghouse, Unit 8672 in compliance with this CAFO by a responsible corporate officer.

71. Respondent must submit a Fifth Report, a SEP completion report to U.S. EPA 24 months after the effective date of this CAFO. This Fifth Report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Itemized list of costs incurred to operate the Dillman Reverse Pulse Baghouse, Unit 8672 in the last 6 months documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs incurred including but not limited to fuel and additional related transportation costs, maintenance costs, including but not limited to necessary repairs, upkeep, and filter bag replacement as needed;
- c. List of the location, date and hours Respondent operated the Dillman Reverse Pulse Baghouse, Unit 8672 and a list of the location, date and hours Respondent operated the Greyhawk Cage Mill Chassis, Unit 8671 in the last 6 months; and
- d. Description of any operating problems for the Dillman Reverse Pulse Baghouse, Unit 8672 and the actions taken to correct the problems in the last 6 months;
- e. Certification that Respondent operated the Dillman Reverse Pulse Baghouse, Unit 8672 in compliance with this CAFO by a responsible corporate officer; and
- f. Description of the environmental and public health benefits resulting from the SEP.

72. Respondent must submit all notices and reports required by this CAFO by first class or overnight mail to Brian Kennedy of the RCRA Branch.

73. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

74. Following receipt of the SEP completion report described in paragraph 71, above, U.S. EPA must notify Respondent in writing that:

- a. Respondent has satisfactorily completed the SEP and the SEP report;

- b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 76.

75. If U.S. EPA exercises option b, above, Respondent may object in writing to the deficiency notice within ten days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any requirements that U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 76, below.

76. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO including the schedule in paragraph 64, Respondent must pay a penalty of \$92,860.
- b. If Respondent did not complete the SEP satisfactorily, but U.S. EPA determines that Respondent (i) made good faith and timely efforts to complete the SEP and (ii) certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 65, Respondent will not be liable for a stipulated penalty under subparagraph a, above.
- c. If Respondent did not timely submit the SEP completion report, or did not timely submit any other report required by paragraphs 69, 70 and 71, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$1,000.00	1 st through 14 th day
\$1,500.00	15 through 30 th day
\$3,000.00	31 st day and beyond

77. U.S. EPA's determinations of whether Respondent satisfactorily completed the SEP and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

78. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 58, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

79. Any public statement that Respondent makes referring to the SEP must include the following language, "The Kraemer Company, LLC undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against The Kraemer Company, LLC for violations of Section 3005 of RCRA, 42 U.S.C. § 6925(a) and the requirements of WAC s. NR 670.001(3) [40 C.F.R. §§ 270.1(c) and 270.10(a) and (d), and 270.13], WAC s. NR 664.0076 [40 C.F.R. § 264.76], WAC s. NR 664.0051(1) [40 C.F.R. § 264.51(a)], and WAC s. NR 664.0016 [40 C.F.R. § 264.16]."

80. Nothing in this CAFO is intended to, nor will be construed to, constitute U.S. EPA approval of the equipment or technology installed by the Respondent in connection with the SEP under this CAFO.

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

General Provisions

82. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

83. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

84. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

85. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

86. The terms of this CAFO bind Respondent, its successors, and assigns.


87. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

88. Each party agrees to bear its own costs and attorney's fees in this action.

89. This CAFO constitutes the entire agreement between the parties.

The Kraemer Company, LLC, Respondent


2/09/15
Date



William Kraemer, President
The Kraemer Company, LLC

United States Environmental Protection Agency, Complainant

2/26/2015
Date




Margaret M. Guerriero
Director
Land and Chemicals Division

**In the Matter of:
The Kraemer Company, LLC
Docket No. RCRA-05-2015-0007**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

3-5-2015
Date



Susan Hedman
Regional Administrator
United States Environmental Protection Agency
Region 5

In the matter of: The Kraemer Company, LLC
Docket Number: RCRA-05-2015-0007


CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on March 12, 2015, this day in the following manner to the addressees:

Copy by certified mail
return-receipt requested: 7009 1680 0000 7679 6446
Mr. William Kraemer
The Kraemer Company, LLC
680 Bridge Road
Plain, Wisconsin 53577

Copy by e-mail to
Attorney for Complainant: Cathleen R. Martwick
martwick.cathleen@epa.gov

Copy by e-mail to
Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: March 12, 2015

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5