



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

**February 25, 2021**

VIA EMAIL ONLY

Mr. Stephen E. Matasich  
Attorney for Western Reserve Chemical Corporation  
Brennan Manna Diamond  
75 E. Market Street  
Akron, Ohio 44308

[sematasich@bmdllc.com](mailto:sematasich@bmdllc.com)

Consent Agreement and Final Order  
In the Matter of Western Reserve Chemical Corporation  
Docket Number TSCA-05-2021-0003

Mr. Matasich:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. This document was filed on February 25, 2021 with the Regional Hearing Clerk.

The civil penalty in the amount of \$357,021 is to be paid in the manner described in paragraphs 39-41 of the CAFO. The first payment of \$59,503.50 is due within 90 calendar days of the filing date. The remaining payments are due in accordance with paragraph 39 of the CAFO.

Thank you for your cooperation in resolving this matter.

Sincerely,

**CLAUDIA**  
**NIESS**

Digitally signed by CLAUDIA  
NIESS  
Date: 2021.02.19 13:38:46  
-06'00'

Claudia Niess  
Enforcement Officer  
Pesticides and Toxics Compliance Section

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No.</b> TSCA-05-2021-0003
	)	
<b>Western Reserve Chemical Corporation</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>4837 Darrow Road</b>	)	<b>Under Section 16(a) of the Toxic Substances</b>
<b>Stow, Ohio, 44224-1440,</b>	)	<b>Control Act, 15 U.S.C. § 2615(a)</b>
	)	
<b>Respondent.</b>	)	
	)	

**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and 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, by lawful delegation, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 5 (“EPA”).

3. Respondent is Western Reserve Chemical Corporation (“WRCC”), a corporation organized under the laws of the State of Ohio and doing business in the State of Ohio.

4. 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).

5. 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.

6. 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**

7. Respondent admits the jurisdictional allegations in this CAFO for purposes of this proceeding, and neither admits nor denies the factual allegations in this CAFO.

8. 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.

### **Statutory and Regulatory Background**

9. The term “chemical substance” is defined to mean “any organic or inorganic substance of a particular molecular identity including any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature and any element or uncombined radical.” 15 U.S.C. § 2602(2)(A) and 40 C.F.R. § 720.3(e).

10. The term “mixture” means, in part, “any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction.” 15 U.S.C. § 2602(8).

11. The term “manufacture” is defined to mean “to import into the customs territory of the United States ..., produce, or manufacture.” 15 U.S.C. § 2602(7) and 40 C.F.R. § 720.3(q).

12. For purposes of Section 5 of TSCA, the terms “manufacture” and “process” mean manufacturing or processing for commercial purposes. 15 U.S.C. § 2604(i).

13. The term “manufacture for a commercial purpose” is defined to mean “to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer or importer, and includes, among other things ‘manufacture’ of any amount of a chemical substance or mixture for commercial distribution, including for test

marketing, and for use by the manufacturer, including use for product research and development or as an intermediate.” 40 C.F.R. § 720.3(r).

14. Section 8(a) of TSCA, 15 U.S.C. § 2607(a), states, in pertinent part, that the Administrator shall promulgate rules under which each person (other than a small manufacturer or processor) who manufactures or processes or proposes to manufacture or process a chemical substance shall maintain records, and shall submit to the Administrator such reports, as the Administrator may reasonably require. Section 8(a) of TSCA authorizes the Administrator to require reporting of information necessary for the administration of TSCA, including issuing regulations for the purpose of compiling and keeping current the TSCA Chemical Substance Inventory (TSCA Inventory) as required by Section 8(b) of TSCA, 15 U.S.C. § 2607(b).

15. Section 8(b) of TSCA, 15 U.S.C. § 2607(b), states that the Administrator shall compile, keep current, and publish a list (TSCA Inventory) of each chemical substance which is manufactured or processed in the United States.

16. Under the authority of Section 8(a) of TSCA, 15 U.S.C. § 2607(a), EPA promulgated the Chemical Data Reporting regulations at 40 C.F.R. Part 711, which specify reporting and recordkeeping procedures for certain manufacturers (including importers) of chemical substances.

17. The term “master inventory file” means “EPA’s comprehensive list of chemical substances which constitutes the TSCA inventory compiled under TSCA Section 8(b).” 40 C.F.R. § 711.3.

18. The term “site” means a contiguous property unit. Property divided only by a public right-of-way shall be considered one site. More than one manufacturing plant may be located on a single site. The site for an importer who imports a chemical substance described in 40 C.F.R. §

711.5 is the U.S. site of the operating unit within the person's organization that is directly responsible for importing the chemical substance. The import site, in some cases, may be the organization's headquarters in the United States. If there is no such operating unit or headquarters in the United States, the site address for the importer is the U.S. address of an agent acting on behalf of the importer who is authorized to accept service of process for the importer. 40 C.F.R. § 711.3.

19. The term "submission period" means "the period in which the manufacturing, processing, and use data are submitted to EPA." 40 C.F.R. § 711.3.

20. The regulation at 40 C.F.R. § 711.5 provides that information must be reported for any chemical substance that is in the master inventory file at the beginning of a submission period described in 40 C.F.R. § 711.20, unless the chemical substance is specifically excluded by 40 C.F.R. § 711.6.

21. For the 2016 submission period, any person who manufactured, including imported, for commercial purposes 25,000 pounds or more of a chemical substance described in 40 C.F.R. § 711.5 at any single site owned or controlled by that person during any calendar year since the previous submission period (*e.g.*, 2012, 2013, 2014, and 2015) is subject to the Chemical Data Reporting Requirements. 40 C.F.R. § 711.8.

22. The 2016 Chemical Data Reporting submission period ran from June 1, 2016 to October 31, 2016. 40 C.F.R. § 711.20.

23. The regulation at 40 C.F.R. § 711.15 requires that any person subject to the Chemical Data Reporting Requirements must submit a "Form U" for each chemical substance described in 40 C.F.R. § 711.5 that the person manufactured (including imported) for commercial purposes in an amount of 25,000 lbs. or more at any one site during any calendar

year since the last principal reporting year (*e.g.*, the principal reporting year for the 2016 submission period was calendar year 2015). The regulation further requires that, for all submission periods, a separate report must be submitted for each chemical substance at each site for which the submitter is required to report.

24. Any person subject to the Chemical Data Reporting requirements must submit the “Form U” during the applicable submission period. 40 C.F.R. § 711.20.

25. Information that must be included on each “Form U” includes, *inter alia*, a certification statement signed and dated by an authorized official of the submitter company, company and plant site information, chemical-specific information (*e.g.*, the Chemical Abstract Index name as used to list the chemical substance on the TSCA Inventory and the correct corresponding CASRN for each reportable chemical substance at each site), and chemical-specific information related to processing and use. 40 C.F.R. § 711.15.

26. Section 15(1) of TSCA, 15 U.S.C. § 2614(1), among other things, makes it unlawful for any person to fail to comply with any requirement of TSCA, or any rule promulgated under TSCA.

27. Section 15(3)(B) of TSCA, 15 U.S.C. § 2614(3)(B), makes it unlawful for any person to fail or refuse to submit reports, notices, or other information as required by TSCA or any rule promulgated thereunder.

28. Section 16 of TSCA, 15 U.S.C. § 2615, states that any person who violates a provision of Section 15 of TSCA, 15 U.S.C. § 2614, shall be liable to the United States for a civil penalty.

### **General Allegations**

29. Respondent supplies chemicals and additives to compounders and formulators of rubber, plastics, adhesives, sealants and coatings. Respondent imports chemical substances into the United States.

30. At all times relevant to this CAFO, Respondent was a person as defined at 40 C.F.R. § 710.3.

31. At all times relevant to this CAFO, Respondent owned or controlled a site at 4837 Darrow Road, Stow, Ohio (“Respondent’s facility” or “the facility”).

### **Chemical Data Reporting**

32. During calendar years 2012 through 2015, Respondent, through its Stow, Ohio, facility, arranged to import for a commercial purpose eighteen (18) chemical substances listed on EPA’s master inventory file and included in the TSCA Inventory. These imported chemical substances included the following (identified by Chemical Abstract Number): CAS Nos. 102-06-7, 103-34-4, 119-47-1, 120-78-5, 128-37-0, 1314-13-2, 1333-86-4, 136-23-2, 137-26-8, 137-30-4, 149-30-4, 17796-82-6, 63449-39-8, 793-24-8, 80-51-3 or 102-77-2, 95-31-8, 95-33-0, and 97-74-5.

33. Because Respondent arranged for the importation of the eighteen (18) chemical substances referred to in Paragraph 32, above, from its Stow, Ohio, facility, Respondent’s facility was the “site” of importation. 40 C.F.R. § 711.3.

34. The amounts of each of the eighteen (18) chemical substances imported by Respondent exceeded the 25,000 pounds threshold established under 40 C.F.R. § 711.8, and therefore subjected Respondent to the Chemical Data Reporting requirements for the 2016 submission period.

35. Respondent was required to submit a “Form U” during the applicable submission period from June 1, 2016 to October 31, 2016, for the eighteen (18) chemical substances imported in calendar years 2012 through 2015. 40 C.F.R. § 711.20.

**Alleged Failure to Submit Required Form U’s for Imported Chemical Substances**

36. Respondent did not submit a Form U during the applicable submission period from June 1, 2016 to October 31, 2016, for the eighteen (18) chemical substances imported in calendar years 2012 through 2015, in violation of 40 C.F.R. § 711.20.

37. Respondent’s failure to submit a Form U for the importation of the eighteen (18) chemical substances imported in calendar years 2012 through 2015 constitutes eighteen (18) separate violations of 40 C.F.R. §§ 711.15 and 711.20 and Sections 15(1) and 15(3) of TSCA, 15 U.S.C. §§ 2614(1) and (3)(B).

**Civil Penalty**

38. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action is \$357,021. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and, with respect to Respondent, ability to pay, effect on ability to continue to do business, any history of such prior violations, the degree of culpability. Complainant also considered EPA’s Enforcement Response Policy for Reporting and Recordkeeping Rules and Requirements for TSCA Sections 8, 12 and 13.

39. Respondent shall pay a civil penalty totaling \$357,021 in six equal installments with interest as follows:

<u>Installment</u>	<u>Due By</u>	<u>Payment</u>	<u>Principal</u>	<u>Interest (1%)</u>
Payment #1	Within 90 days of effective date of CAFO	\$59,503.5	\$59,503.5	\$0



Payment #2	Within 180 days of effective date of CAFO	\$60,991.09	\$59,503.5	\$1,487.59
Payment #3	Within 270 days of effective date of CAFO	\$60,098.54	\$59,503.5	\$595.04
Payment #4	Within 360 days of effective date of CAFO	\$59,949.78	\$59,503.5	\$446.28
Payment #5	Within 450 days of effective date of CAFO	\$59,801.02	\$59,503.5	\$297.52
Payment #6	Within 540 days of effective date of CAFO	\$59,652.26	\$59,503.5	\$148.76

As indicated in the payment schedule set forth above, each installment shall add interest to the penalty amount. Nothing herein shall prohibit Respondent from paying the entire penalty within 90 days of the effective date of the CAFO, should Respondent elect to do so. In addition, Respondent, after having made previous installment payments in accordance with this CAFO, may elect to pay the remainder of the total penalty prior to the due date of Payment #6 (with applicable interest as set forth above).

40. Respondent must pay each installment of the civil penalty by ACH electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

US Treasury REX / Cashlink ACH Receiver  
 ABA: 051036706  
 Account Number: 310006, Environmental Protection Agency  
 CTX Format Transaction Code 22 – checking

In the comment area of the electronic funds transfer, Respondent shall state “Western Reserve Chemical Corporation” and provide the docket number of this CAFO.

41. Respondent must send a notice of payment that states Respondent’s name and the case docket number to EPA at the following addresses when it pays each installment of the penalty:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604  
[whitehead.ladawn@epa.gov](mailto:whitehead.ladawn@epa.gov)

Claudia Niess (ECP-17J)  
Pesticides and Toxics Compliance Section  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604  
[niess.claudia@epa.gov](mailto:niess.claudia@epa.gov)

James J. Cha (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604  
[cha.james@epa.gov](mailto:cha.james@epa.gov)

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

43. If Respondent does not pay timely the civil penalty, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

44. 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 the payment was due at a rate established pursuant to 31 U.S.C. § 3717. 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.

#### **General Provisions**

45. The parties consent to service of this CAFO by e-mail at the following valid e-mail

addresses: cha.james@epa.gov (for Complainant), and sematasich@bmdllc.com (for Respondent).

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

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

48. This CAFO does not affect Respondent's responsibility to comply with TSCA and other applicable federal, state and local laws.

49. Respondent certifies that it is complying with TSCA.

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

51. 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.

52. Each party agrees to bear its own costs and attorneys' fees in this action.

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

**Consent Agreement and Final Order**  
**In re: Western Reserve Chemical Corporation, Respondent**  
**Docket No.** TCSA-05-2021-003

**Western Reserve Chemical Corporation, Respondent**

2/19/21


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Date

**Ronald F.  
Anderson**

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Ronald Anderson  
President  
Western Reserve Chemical Corporation

 Digitally signed by Ronald F.  
Anderson  
Date: 2021.02.19 13:29:48  
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**Consent Agreement and Final Order**  
**In re: Western Reserve Chemical Corporation, Respondent**  
**Docket No. TSCA-05-2021-0003**

**United States Environmental Protection Agency, Complainant**

2/25/21

\_\_\_\_\_  
Date

**MICHAEL  
HARRIS**

Digitally signed by  
MICHAEL HARRIS  
Date: 2021.02.25  
11:56:46 -06'00'

\_\_\_\_\_  
Michael D. Harris  
Director  
Enforcement and Compliance Assurance Division

**Consent Agreement and Final Order**  
**In re: Western Reserve Chemical Corporation**  
**Docket No. TSCA-05-2021-0003**

**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.

**ANN COYLE** Digitally signed by ANN  
COYLE  
Date: 2021.02.25 12:56:17  
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\_\_\_\_\_  
Date

\_\_\_\_\_  
Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5

**Consent Agreement and Final Order**  
**In Re: Western Reserve Chemical Corporation**  
**Docket Number:** TSCA-05-2021-0003

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number TSCA-05-2021-0003, which was filed on February 25, 2021, in the following manner to the following addressees:

Copy by E-mail to  
Attorney for Complainant: Mr. James J. Cha  
[cha.james@epa.gov](mailto:cha.james@epa.gov)

Copy by E-mail to  
Attorney for Respondent: Mr. Stephen E. Matasich  
[sematasich@bmdllc.com](mailto:sematasich@bmdllc.com)

Copy by E-mail to  
Regional Judicial Officer: Ms. Ann Coyle  
[coyle.ann@epa.gov](mailto:coyle.ann@epa.gov)

Dated: \_\_\_\_\_

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