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

REGIONAL HEARING CLERK
EPA REGION III PHILA, PA

In the Matter of:)
) EPA Docket No.: CERC-03-2015-0119
) EPCRA-03-2015-0119
)
 Delaware City Refining Company LLC)
 4550 Wrangle Hill Road)
 Delaware City, DE 19706,)
 Respondent.)
) Proceedings Pursuant to Sections 103 and
) 109 of the Comprehensive Environmental
) Response, Compensation and Liability
) Act, 42 U.S.C. §§ 9603 and 9609, and
) Sections 304 and 325 of the Emergency
) Planning and Community Right-to-Know
) Act ("EPCRA"), 42 U.S.C. §§ 11004 and
) 11045
)

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, and Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045. The President has delegated this authority to the Administrator of the U.S. Environmental Protection Agency ("EPA"), who has, in turn, delegated it to the Regional Administrator of EPA, Region III. The Regional Administrator has re-delegated this authority to the Director of the Hazardous Site Cleanup Division, EPA Region III ("Complainant"). Further, this Consent Agreement is proposed and entered into under the authority provided by the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits" ("Consolidated Rules of Practice"), 40 C.F.R. Part 22.

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), 22.18(b)(2) and (3), and 22.1(a)(7) and (8), 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 (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 EPA's jurisdiction with respect to the execution or enforcement of this Consent Agreement.
4. EPA and Respondent expressly acknowledge that the provisions of Paragraph 3 shall not constitute an admission as to any matter other than as necessary for establishing EPA's jurisdiction in this proceeding, and is neither intended nor shall be construed as an admission that may be relied upon for any purpose by any person not a party to this proceeding.

**FACTUAL ALLEGATIONS AND
CONCLUSIONS OF LAW**

5. For the purpose of this proceeding, and with the exception of Paragraph 3, above, Respondent neither admits nor denies the following factual allegations and conclusions of law, but expressly waives its rights to contest said allegations.

FINDINGS OF FACT

6. Delaware City Refining Company LLC ("Respondent") is a limited liability company incorporated in the State of Delaware.
7. In 2010, Respondent acquired a facility located at 4550 Wrangle Hill Road, Delaware City, Delaware, 19706 ("the Facility"), which is utilized for the Respondent's petroleum refining business.
8. The Facility is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), and 40 C.F.R. § 302.3, as well as Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 355.61.
9. Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and 40 C.F.R. § 302.3, as well as Section 329(7) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 355.61.
10. At all times relevant to this CA/FO, Respondent has been in charge of the Facility, within the meaning of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6.

11. Respondent is an “owner or operator” of the Facility as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and referenced in Section 304 of EPCRA, 42 U.S.C. § 11004, and 40 C.F.R. § 355.2 and 355.30.

12. On May 28, 2015, EPA issued to Respondent a letter describing the *Alleged Violation of CERCLA Section 103 and EPCRA Section 304 Opportunity to Show Cause and Offer of Settlement* (the “Show Cause Letter”).

13. In response to the Show Cause Letter, representatives of Respondent met with and provided additional information to EPA concerning the events at the Facility on September 21, 2014 and February 22-24, 2015.

Count I

14. The findings of fact contained in Paragraphs 5 through 13 of this CA/FO are incorporated by reference herein as though fully set forth at length.

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

16. 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.

17. On October 30, 2014, pursuant to its authority under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), EPA sent Respondent an Information Request letter requesting information regarding the Respondent’s compliance at the Facility with Section 103 of CERCLA, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11004.

18. On November 25, 2014, Respondent submitted to EPA a response to the October 30, 2014 Information Request letter (“November 25, 2014 Response”).

19. According to the November 25, 2014 Response, from 1:37 p.m. until 1:57 p.m. on September 21, 2014, an estimated 14 pounds of benzene, Chemical Abstract Service (“CAS”)

No. 71-43-2, were released from equipment at the Facility, and Respondent conservatively projected that the benzene emissions migrated outside of the Facility's boundaries (the "Benzene Release").

20. According to the November 25, 2014 Response, the benzene was released outdoors from an outlet flange associated with a benzene product clay treater designated as "32-D-201A."

21. On September 15, 2014, September 19, 2014, and September 20, 2014, refinery personnel observed a small leak coming from the outlet flange of 32-D-201A. In each instance, personnel took the clay treater offline and attempted to fix the clay treater to stop the leak.

22. According to the November 25, 2014 Response, on September 21, 2014, at approximately 1:37 p.m., while attempting to install a clamp on the clay treater, operations personnel observed the Benzene Release for several minutes at an estimated rate of seven gallons per minute. Operations personnel applied a water spray to the Benzene Release location and took the clay treater offline. At approximately 1:57 p.m., operators repaired the flange and the Benzene Release was terminated.

23. Based upon calculations from Respondent's Project Design Engineer, as much as 595.4 pounds of benzene were released from the clay treater on September 21, 2014. However, the water spray that operations personnel applied approximately 30 seconds after the release began captured some of the released benzene and inhibited benzene from vaporizing into the atmosphere. As a result, Respondent calculated that a total of 14 pounds of benzene had been released into the environment.

24. On September 21, 2014 at 6:56 p.m., Respondent completed calculations and ascertained that 14 pounds of benzene had been released into the atmosphere.

25. Respondent did not notify the NRC of the Benzene Release until 8:29 p.m. on September 21, 2014.

26. Benzene 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.

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

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

29. Respondent failed to immediately notify the NRC of the Benzene 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.

Counts II and III

30. The findings of fact contained in Paragraphs 5 through 29 of this CA/FO are incorporated by reference herein as though fully set forth at length.

31. Sections 304(a)(3)(A) and 304(b) of EPCRA, 42 U.S.C. § 11004(a)(3)(A), § 11004(b), as implemented by 40 C.F.R. Part 355, require, in relevant part, the owner or operator of a facility to immediately notify the Local Emergency Planning Committee (“LEPC”) and the State Emergency Response Commission (“SERC”) as soon as he/she has knowledge of a release of a substance for which a reportable quantity has been established under Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), if that release also requires notification under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

32. As the Benzene Release required immediate notification of the NRC pursuant to Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), pursuant to Section 304(a)(3)(A) and 304(b) of EPCRA, 42 U.S.C. § 11004(a)(3)(A), 11004(b), the Benzene Release also required immediate notification of the LEPC and the SERC.

33. Respondent did not notify the SERC of the Benzene Release until 8:37 p.m. on September 21, 2014.

34. Respondent did not notify the LEPC of the Benzene Release until 8:39 p.m. on September 21, 2014.

35. Respondent failed to immediately notify the LEPC and the SERC of the Benzene 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 thus requiring notification of the NRC, as required by Sections 304(a)(3)(A) and 304(b) of EPCRA, 42 U.S.C. § 11004(a)(3)(A), 11004(b), and 40 C.F.R. § 355.30, 355.42.

Count IV

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

37. On May 22, 2015, pursuant to its authority under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), EPA sent Respondent an Information Request letter requesting information regarding Respondent’s compliance at the Facility with Section 103 of CERCLA, 42 U.S.C.

§ 9603, and Section 304 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11004.

38. On June 26, 2015, Respondent submitted to EPA a response to the May 22, 2015 Information Request letter (“June 26, 2015 Response”).

39. According to the June 26, 2015 Response, from approximately 8:35 a.m. until 2:30 p.m. on February 22, 2015, an estimated 140 pounds of 1,3-butadiene, CAS No. 106-99-0, were released from the Facility (the “1,3-Butadiene Release”).

40. According to the June 26, 2015 Response, at approximately 8:35 a.m. on February 22, 2015, operations personnel observed liquid and vapors leaking from a high pressure recovery header highline pipe. The material in the pipe consisted of a mixture of hydrogen sulfide, 1,3-butadiene, methane, ethane, propane, and propylene.

41. According to the June 26, 2015 Response, Respondent’s engineering team performed initial calculations based upon an assumption that the release was caused by a small hole in the pipe caused by corrosion and determined that the emission rate for the leak would have resulted in a release of hydrogen sulfide in excess of the applicable RQ.

42. Respondent notified the NRC, the SERC, and the LEPC of a release of hydrogen sulfide in excess of the applicable RQ between 9:57 a.m. and 10:02 a.m. on February 22, 2015.

43. On February 23, 2015, operations personnel inspected the pipe, determined that the rupture had been caused by cyclical freeze-thaw conditions due to weather, and discovered that, consequently, the rupture was significantly larger than predicted the previous day.

44. Respondent’s engineering team re-calculated the release rate based upon the rupture size of the pipe and concluded, at approximately 5:41 p.m. on February, 23, 2015, that the quantity of 1,3-butadiene released on February 22, 2015 was approximately 140 pounds.

45. The chemical 1,3-butadiene 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.

46. The 1,3-Butadiene Release was not a “federally permitted release” as that term is used in Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6, and defined in Section 101(10) of CERCLA, 42 U.S.C. § 9601(10).

47. The 1,3-Butadiene Release from the Facility constitutes a release of a hazardous substance in a quantity equal to or exceeding the RQ for that hazardous substance, requiring immediate notification of the NRC pursuant to Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

48. On February 23, 2015 at 5:41 p.m., Respondent completed calculations and ascertained that 140 pounds of 1,3-butadiene had been released into the environment.

49. Respondent did not notify the NRC of the 1,3-Butadiene Release until 10:55 a.m. on February 24, 2015.

50. Respondent failed to immediately notify the NRC of the 1,3-Butadiene 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.

Counts V and VI

51. The findings of fact contained in Paragraphs 5 through 50 of this CA/FO are incorporated by reference herein as though fully set forth at length.

52. As the 1,3-Butadiene Release required immediate notification of the NRC pursuant to Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), pursuant to Sections 304(a)(3)(A) and 304(b) of EPCRA, 42 U.S.C. § 11004(a)(3)(A), § 11004(b), the 1,3-Butadiene Release also required immediate notification of the LEPC and the SERC.

53. Respondent did not notify the LEPC of the 1,3-Butadiene Release until 11:02 a.m. on February 24, 2015.

54. Respondent did not notify the SERC of the 1,3-Butadiene Release until 11:07 a.m. on February 24, 2015.

55. Respondent failed to immediately notify the LEPC and the SERC of the 1,3-Butadiene 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 thus requiring notification of the NRC, as required by Sections 304(a)(3)(A) and 304(b) of EPCRA, 42 U.S.C. § 11004(a)(3)(A), § 11004(b), and 40 C.F.R. § 355.30, 355.42.

CONCLUSIONS OF LAW

56. Respondent's failure to immediately notify the NRC of the Benzene Release is a 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.

57. Respondent's failures to immediately notify the LEPC and the SERC of the Benzene Release are each violations of Section 304 of EPCRA, 42 U.S.C. § 11004. Respondent is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

58. Respondent's failure to immediately notify the NRC of the 1,3-Butadiene Release is a 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.

59. Respondent's failure to immediately notify the LEPC and the SERC of the 1,3-Butadiene Release are each violations of Section 304 of EPCRA, 42 U.S.C. § 11004. Respondent is, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

SETTLEMENT

60. 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, Respondent consents to the assessment of a civil penalty for the violations of Section 103 of CERCLA, 42 U.S.C. § 9603, and Section 304 of EPCRA, 42 U.S.C. § 11004, set forth above, in the amount of **\$73,113.75**.

61. 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.

PAYMENT TERMS

62. 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 \$24,371.25 and the EPCRA civil penalty of \$48,742.50, or a total civil penalty of **\$73,113.75**, 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.

63. 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, CERC-03-2015-0119;
 - 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
U.S. EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electric 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:

U.S. 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. Online 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

64. 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, EPCRA-03-2015-0119;
- 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
U.S. 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:

U.S. 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. Online 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

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

Lydia Guy (3RC00) Regional Hearing Clerk U.S. EPA, Region III 1650 Arch Street Philadelphia, PA 19103-2029	and	Lauren Ziegler (3RC42) Assistant Regional Counsel U.S. EPA, Region III 1650 Arch Street Philadelphia, PA 19103-2029
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66. The CERCLA and EPCRA civil penalty stated herein is based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 109 of CERCLA, 42 U.S.C. § 9609, and Section 325 of EPCRA, 42 U.S.C. § 11045. 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).

67. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment by the final due date or to comply with the conditions in this CA/FO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

68. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this fully executed CA/FO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

69. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the Final Due Date and an additional \$15.00 for each subsequent thirty (30) day period the penalties remain unpaid.

70. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalties which remain delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be

required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

71. Failure by Respondent to pay the CERCLA and 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 109 of CERCLA, 42 U.S.C. § 9609, and 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.

GENERAL PROVISIONS

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

73. 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 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.

74. This Consent Agreement and the accompanying Final Order resolve only the civil penalty claims for the specific violations alleged in this Consent Agreement. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Nor shall anything in this Consent Agreement and Final Order be construed to limit the United States authority to pursue criminal sanctions. In addition this settlement is subject to all limitations on the scope of resolution and the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, Complainant reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this Consent Agreement and accompanying Final Order following its filing with the Regional Hearing Clerk.

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

FOR DELAWARE CITY REFINING COMPANY, LLC

John J. Deemer
Signature

September 7, 2015
DATE

John J. Deemer

Print Name

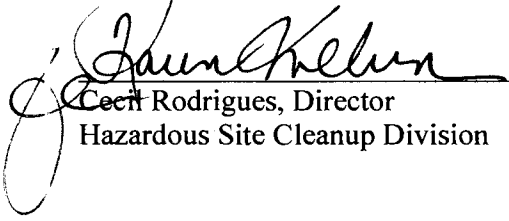
Health, Safety & Environmental Manager

Title

In the Matter of: Delaware City Refining Company

EPA Docket No.: CERC-03-2015-0119
EPCRA-03-2015-0119

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY


Cecil Rodrigues, Director
Hazardous Site Cleanup Division

SEP 28 2015
DATE

RECORDED

2015 SEP 29 AM 11:49

REGIONAL HEADING CLERK
EPA REGION III, PHILADELPHIA, PA

BEFORE THE UNITED STATES

ENVIRONMENTAL PROTECTION AGENCY

REGION III

In the Matter of:

Delaware City Refining Company LLC
4550 Wrangle Hill Road
Delaware City, DE 19706,

Respondent.

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FINAL ORDER

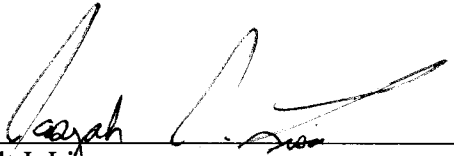
Complainant, the Director of the Hazardous Site Cleanup Division, U.S. Environmental Protection Agency, Region III, and Respondent, Delaware City Refining Company, LLC have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated 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 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act* (September 30, 1999), and the statutory factors set forth in Section 109 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9609, and Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045.

NOW, THEREFORE, PURSUANT TO Section 109 of CERCLA, 42 U.S.C. § 9609, and Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **SEVENTY THREE THOUSAND, ONE HUNDRED THIRTEEN DOLLARS AND SEVENTY FIVE CENTS (\$73,113.75)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Sept. 29, 2015
Date



Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA, Region III