

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

This form was originated by: Janet Smeuler 6/30/11
Name of Contact person Date

in the ORC Office at 215-814-2089
Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS
 Administrative Order/Consent Agreement FMD COLLECTS PAYMENT
 SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

Name of Company making payment: American Hollow Brick Co.

The Total Dollar Amount of Receivable: \$4250
(If in installments, attach schedule of amounts and respective due dates)
The Case Docket Number EPCRA-03-2011-0097
The Site-Specific Superfund Acct. Number _____
The Designated Regional/HQ Program Office _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____
If you have any questions call: _____
Name of Contact Date
in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- 1. Rosemarie Pacheco
Environmental Enforcement Section
Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005
- 2. Originating Office (ORC)
- 3. Designated Program Office

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- 1. Originating Office
- 2. Designated Program Office
- 3. Regional Hearing Clerk

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:	:	
	:	
American Hollow Boring Co.	:	Docket No. EPCRA-03-2011-0097
	:	
	:	
Respondent	:	CONSENT AGREEMENT
	:	
	:	
American Hollow Boring Co.	:	
1901 Raspberry Street	:	
Erie, PA 16502	:	
	:	
	:	Proceeding under EPCRA § 325(c),
	:	42 U.S.C. § 11045(c)
Facility.	:	

CONSENT AGREEMENT
Preliminary Statement

This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and American Hollow Boring Co. ("Respondent"), pursuant to Sections 313 and 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. §§ 11023 and 11045(c), the regulations implementing EPCRA § 313 as set forth at 40 C.F.R. Part 372, and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits" ("Consolidated Rules"), 40 C.F.R. Part 22. Pursuant to 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3), this Consent Agreement ("CA") and the accompanying Final Order ("FO" and, collectively, "CAFO"), simultaneously commence and conclude this proceeding to resolve violations of EPCRA § 313, as alleged herein, by Respondent at its facility located at 1901 Raspberry Street, Erie, Pennsylvania, 16512.

I. General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Except as provided in Paragraph 1 herein, Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in this CAFO.

3. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this CA, the issuance of the attached FO, or the enforcement of this CAFO.
4. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this CA and any right to appeal the accompanying FO.
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
6. Respondent shall bear its own costs and attorney's fees.

II. Findings of Fact and Conclusions of Law

7. In accordance with Section 22.13(b) and .18(b)(2) of the *Consolidated Rules*, Complainant adopts the following findings of fact and conclusions of law.
8. Section 313 of EPCRA and 40 C.F.R. Part 372 require, *inter alia*, that the owner or operator of a facility that: 1) has 10 or more employees; 2) has a primary Standard Industrial Classification ("SIC") Code of 20 [2000] through 39 [3900] (as in effect on July 1, 1985), or other SIC or industry code as set forth in 40 C.F.R. Section 372.22(b); and 3) manufactured, processed or otherwise used a toxic chemical listed in 40 C.F.R. § 372.65, in excess of the threshold quantities established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during the calendar year for which the form is required, to complete and submit a toxic chemical release form ("Form R") or appropriate alternative threshold report ("Form A") for each such toxic chemical to EPA and the state in which the facility is located by July 1 of the following calendar year.
9. Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3 define "facility" to mean, in relevant part, all buildings, equipment, structures, and other stationary items that are located on a single site and that are owned or operated by the same person.
10. Section 329(7) of EPCRA, 42 U.S.C. § 329(7), defines "person" to include any corporation.
11. Respondent is incorporated in the Commonwealth of Pennsylvania and is a "person" as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
12. Respondent owns and operates, and at the time of the violations alleged herein, owned and operated a machining facility that is located at 1901 Raspberry Street, Erie, Pennsylvania 16502 ("Facility").
13. Respondent's Facility is a "facility" as defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3.

14. At the time of the violations alleged herein, Respondent employed 10 or more full-time employees at the Facility.
15. At the time of the violations alleged herein, the Facility had a primary SIC code of 3599.
16. Respondent was required to complete and submit a Form R or Form A for each toxic chemical listed in 40 C.F.R. § 372.65 which was manufactured, processed, or otherwise used at the Facility in excess of the threshold quantity set forth in Section 313(f) of EPCRA during any calendar year, to EPA and the Commonwealth of Pennsylvania by July 1 of the following calendar year.
17. Section 325(c) of EPCRA provides that any person who violates EPCRA Section 313 shall be liable to the United States for a civil penalty.

Counts 1-6

18. "Chromium" and "nickel" are each "toxic chemical[s]" as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), 40 C.F.R. § 372.3, and are each listed in 40 C.F.R. § 372.65.
19. As set forth in Section 313(f)(1)(B)(iii) of EPCRA, 42 U.S.C. § 11023(f)(1)(B)(iii), with exceptions not relevant here at 40 C.F.R. § 372.27 and .28, the reporting threshold amount for chromium and nickel which is manufactured or processed at a facility is 25,000 pounds.
20. Respondent processed more than 25,000 pounds each of chromium and nickel at the Facility during each of the 2005, 2006, and 2007 calendar years.
21. Pursuant to EPCRA § 313(g)(2), Respondent was required to submit to the Administrator of EPA and the Commonwealth of Pennsylvania by July 1 of 2006, 2007, and 2008, a completed Form R or Form A for the chromium processed at the Facility during calendar years 2005, 2006, and 2007, respectively.
22. Pursuant to EPCRA § 313(g)(2), Respondent was required to submit to the Administrator of EPA and the Commonwealth of Pennsylvania by July 1 of 2006, 2007, and 2008, a completed Form R or Form A for the nickel processed at the Facility during calendar years 2005, 2006, and 2007, respectively.
23. Respondent filed the required Form Rs for the toxic chemicals chromium and nickel processed at the Facility during calendar years 2005, 2006, and 2007, to the Administrator of EPA on or about August 26, 2008.
24. Respondent's failure to timely file its Form Rs for the toxic chemicals chromium and nickel processed at the Facility during calendar years 2005, 2006, and 2007 constitutes six separate

violations of Section 313 of EPCRA, 42 U.S.C. § 11023.

25. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates EPCRA § 313 shall be liable to the United States for a civil penalty of up to \$25,000 per violation. Pursuant to the 2008 Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, (73 Fed. Reg. 74,346 (Dec. 11, 2008)), violations of Section 313 of EPCRA that occurred after January 12, 2009, are subject to an increased statutory maximum penalty of \$37,500 per violation. Violations of Section 313 of EPCRA that occurred after March 15, 2004, but prior to January 13, 2009, are subject to a statutory maximum penalty of \$32,500 per violation. (64 Fed. Reg. 7121 (Feb. 13, 2004)).

III. Supplemental Environmental Project

26. Respondent shall complete the following Supplemental Environmental Project (“SEP”), which the parties agree is intended to secure significant environmental and/or public health protections. No more than THIRTY (30) DAYS after receiving a true and correct copy of this fully executed and effective CAFO, Respondent shall commence the Metals Recovery Project as described in the Statement of Work (“SOW”) appended to this CA as Attachment A. The SEP is intended to enable Respondent to recover for recycling the chromium and nickel contained in the honing mud historically disposed of offsite in a landfill. Successful implementation of the SEP will eliminate the offsite disposal of the honing mud and these toxic chemicals by the Facility.
27. The SOW shall be fully implemented within ONE HUNDRED EIGHTY (180) days of the effective date of the CAFO.
28. The total required Actual SEP Expenditures shall not be less than \$14,000.00. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described in Paragraph 30 herein. For purposes of this paragraph, “Actual SEP Expenditures” shall include the costs for the design, development, installation and implementation of the SEP as specified in the SOW attached hereto.
29. Respondent hereby certifies that, as of the date of its signature to this CA, Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by any other agreement, or grant, or as injunctive relief in this or any other legal proceeding or in compliance with state or local requirements. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP or any portion thereof. Respondent further certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful

federal financial transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

30. Respondent shall submit a SEP Completion Report to EPA no later than TWO HUNDRED TEN (210) DAYS after the effective date of this CAFO. The SEP Completion Report shall contain the following information:
 - (a) A detailed description of the SEP as implemented, describing how the SEP has fulfilled all the requirements described in the SOW;
 - (b) A description of any operating problems encountered and the solutions utilized by Respondent to address such problems;
 - (c) An itemization of costs incurred in implementing the SEP. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all Actual SEP Expenditures as provided by Paragraph 31. Where the SEP Completion Report includes costs incurred by Respondent not eligible for SEP credit, such costs must be clearly identified in the SEP Completion Report as ineligible for SEP credit;
 - (d) Certification in accordance with Paragraph 37 of this CAFO that the SEP has been fully implemented pursuant to the provisions of this CAFO; and
 - (e) A description and a quantitative and qualitative estimate of the environmental and public health benefits resulting from implementation of the SEP.
31. In itemizing the costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all Actual SEP Expenditures. For purposes of this paragraph, "acceptable documentation" for itemizing Actual SEP Expenditures includes invoices, purchase orders, canceled checks, or other documentation that specifically identifies and itemizes the Actual SEP Expenditures of the goods and/or services for which payment is being made by Respondent. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual cost of the goods and/or services for which payment is being made.
32. Respondent shall continue to implement the SEP for not less than three years subsequent to installation.
33. EPA may inspect the Facility at any time to confirm that the SEP is being undertaken in conformity with the specifications referenced herein.

34. Respondent shall maintain for a period of three years following EPA's issuance of a "Letter of Remittance" the following records for inspection by EPA: the original financial records pertaining to Actual SEP Expenditures incurred in implementing the SEP as described in Paragraph 31 and non-financial records (e.g. work orders and work reports) documenting the actual implementation and/or performance of the SEP.
35. Following receipt of the SEP Completion Report described in Paragraph 30, EPA will do one of the following:
- a. Notify Respondent in writing of any deficiency in the SEP Completion Report itself ("Notice of Deficiency") and grant an additional THIRTY (30) DAYS for Respondent to correct the deficiency;
 - b. Notify Respondent in writing of EPA's determination that the project has been completed satisfactorily ("Notice of Approval"); or
 - c. Notify Respondent in writing that the project has not been completed satisfactorily ("Notice of Disapproval"), in which case EPA may seek additional penalties in accordance with Section V herein.
36. Respondent agrees to comply with any requirements imposed by EPA as a result of any failure to comply with the terms of this CAFO. If EPA, in its sole discretion and after completion of the Dispute Resolution process set forth in Section IV of this CAFO, if applicable, determines that the SEP and/or any report due pursuant to this CAFO has not been completed as set forth herein, additional penalties shall be due and payable by Respondent to EPA in accordance with Section V herein.
37. Any notice, certification, data presentation, or other document, including the SEP Completion Report, submitted by Respondent pursuant to this CA which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirements of this CA shall be certified by a "responsible corporate officer" as that term is defined at 40 C.F.R. § 270.11. The aforesaid certification shall provide the following statement above the signature of the responsible person signing the certification on behalf of Respondent:

I certify under penalty of law that this document and all attachments are true, accurate and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for

gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: _____
Name: _____
Title: _____

Any notifications or submissions to EPA required by this CA shall be sent to the attention of:

Craig Yussen (3LC61)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

IV. Dispute Resolution

38. If EPA issues a written Notice of Disapproval rejecting a SEP Completion Report pursuant to Paragraph 35 herein, EPA shall grant Respondent the opportunity to object in writing to such notification of disapproval within twenty (20) days of receipt of EPA's notification. EPA and Respondent shall have an additional (30) days from the receipt by EPA of the objection by Respondent to resolve and reach an agreement on the matter in dispute. If an agreement cannot be reached within such thirty (30) day period, EPA shall provide to Respondent a written Statement of Decision and the rationale therefor.
39. In the event that EPA determines after the expiration of the aforesaid 30-day dispute resolution period that a SEP has not been completed as specified herein or has issued a written Notice of Disapproval for which a timely objection has not been filed as provided in Paragraph 38 herein, additional penalties shall be due and payable by Respondent to EPA in accordance with Section V of this CAFO. The submission of an unacceptable SEP Completion Report shall be the equivalent of the failure to submit a timely SEP Completion Report for the purposes of the additional penalty provisions set forth in Section V, below, except that the calculation of any such additional penalties shall not run during the pendency of the dispute resolution procedure set forth in Paragraph 38, but shall instead run from the date on which Respondent received EPA's Statement of Decision pursuant to Paragraph 38, or, in the event that Respondent has not filed a timely objection to an EPA Notice of Disapproval, the date following the day of expiration of the 30-day dispute resolution period.

V. Additional Penalties

40. In the event that Respondent fails to comply with any of the terms or conditions of this CA relating to the performance of the SEP described in the SOW and/or to the extent that the

Actual Expenditures for the SEP do not equal or exceed the amount of Actual SEP Expenditures required to be incurred under Paragraph 28 of this CA (*i.e.* \$14,000), Respondent shall be liable for additional penalties according to the provisions below:

a. Except as provided in subparagraph 40.b. herein, for a SEP which has not been completed satisfactorily pursuant to this CAFO, Respondent shall pay an additional penalty to the United States in the amount of \$10,000.

b. If the SEP is not completed in accordance with Section III, but Complainant determines that Respondent: (i) made good faith and timely efforts to complete the project; and (ii) certified, with acceptable supporting documentation, that at least \$12,600 (90% of the Actual SEP Expenditures required to be incurred under Paragraph 28 herein) was expended on the SEP, Respondent shall not be liable for any additional penalty;

c. If the SEP is completed in accordance with Section III, but Respondent spent less than \$12,600 (90% of the amount of the Actual SEP Expenditures required to be incurred under Paragraph 28 herein), Respondent shall pay as an additional penalty an amount calculated as follows:

$\$10,000 - (\text{"minus"}) \text{ the Actual SEP Expenditures} = (\text{"equals"}) \text{ Additional Penalty.}$

d. If the SEP is completed in accordance with Section III and Respondent spent at least \$12,600 (90% of the Actual SEP Expenditures required to be incurred under Paragraph 28 herein), Respondent shall not be liable for any additional penalty;

e. For failure to submit the SEP Completion Report required by Paragraph 30 herein, Respondent shall pay an additional penalty of \$200.00 for each day after the deadline set forth in Paragraph 30 herein until the Report is submitted.

41. The determination of whether the SEP has been satisfactorily completed and whether Respondent has made a good faith, timely effort to implement the SEP shall be within the sole discretion of EPA.
42. Additional penalties for subparagraph 40.e. herein shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.
43. Respondent shall pay additional penalties not more than FIFTEEN (15) days after receipt of a written demand by EPA for such penalties. The method of payment shall be in accordance with Paragraph 53 herein. Interest and late charges shall be paid as stated in Paragraphs 54, 55, 56, and 57 herein.

VI. Language to be Included in Public Statements

44. Any public statement, oral or written, in print, film or other media, made by Respondent making reference to the SEP shall include the following language: "This project was undertaken in connection with the settlement of enforcement action taken by the U.S. Environmental Protection Agency for violations of the Emergency Response and Community Right-to-Know Act."

VII. Force Majeure

45. If any event occurs which causes or may cause a delay in the completion of the SEP as required under this CAFO, Respondent shall notify Complainant in writing not more than TEN (10) DAYS after the delay or when Respondent knew or should have known of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to minimize the delay, and the timetable by which those measures shall be implemented. The Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this Paragraph shall render Paragraphs 46 through 48 void and of no effect as to the particular incident involved and constitute a waiver of the Respondent's right to seek an extension of the time for performance of its obligations under this CAFO.
46. If the Parties agree that the delay or anticipated delay in compliance with this CAFO has been or will be caused by circumstances entirely beyond the control of Respondent which could not be overcome by due diligence, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event the Parties shall stipulate to such extension of time.
47. In the event that EPA does not agree that the delay in achieving compliance with this CAFO has been or will be caused by circumstances entirely beyond the control of Respondent which could not be overcome by due diligence, EPA will notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused.
48. The burden of proving that any delay is caused by circumstances entirely beyond the control of Respondent which could not be overcome by due diligence shall rest with Respondent. Increased costs or expenses associated with the implementation of actions called for by this CAFO shall not, in any event, be a basis for changes in this CAFO or extensions of time herein. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of a subsequent step.

VIII. Satisfaction of Settlement Conditions

49. A determination of compliance with the conditions set forth herein will be based upon, *inter alia*, copies of records and reports submitted by Respondent to EPA under this CAFO and any inspections of work performed under the SEP that EPA reasonably determines are

necessary to evaluate compliance. Respondent is aware that the submission of false or misleading information to the United States government may subject it to separate civil and/or criminal liability. Complainant reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to Complainant regarding the matters at issue in the Findings of Fact and Conclusions of Law are false, or in any material respect, inaccurate.

50. If EPA determines that Respondent has complied fully with the conditions set forth herein, EPA, through the Regional Administrator of U.S. EPA, Region III, or his designee, shall promptly issue a "Letter of Remittance" which shall state that Respondent has performed fully the conditions set forth in this CAFO and paid all the penalty amounts due pursuant to the terms of this CAFO.

IX. Civil Penalty

51. Complainant has determined the appropriate penalty for the violations identified and described in this CA by considering a number of factors, including the facts and circumstances of this case, the penalty criteria set forth in EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990)[amended]*(April 12, 2001), the Adjustment of Civil Monetary Penalties for Inflation, and 40 C.F.R. Part 19.
52. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this CA, Respondent consents to the assessment of a civil penalty in the amount of **Four Thousand Two Hundred Fifty Dollars (\$4,250.00)**, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO, fully executed by the parties, signed by the Regional Administrator or the Regional Judicial Officer, and filed with the Regional Hearing Clerk.
53. Respondent shall remit payment for the civil penalty in Paragraph 52 herein and/or any administrative fees and late payment penalties, in accordance with Paragraphs 54, 55, 56 and 57 herein, and any additional penalties, by either cashier's check, certified check, or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, EPCRA-03-2011-0097;
 - 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. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center

PO Box 979077
St. Louis, MO 63197-9000
Contacts: Craig Steffen 513-487-2091
Eric Volck 513-487-2105

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Contacts: Craig Steffen 513-487-2091
Eric Volck 513-487-2105

- 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 ML 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:

Automated Clearinghouse (ACH) for receiving US currency

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

Physical location of US Treasury facility:
5700 Rivertech Court

Riverdale, MD 20737

Contact: John Schmid 202-874-7026
REX (Remittance Express) 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:

www.epa.gov/ocfo/finservices/payment_instructions.htm

j. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO (EPCRA-03-2011-0097). A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Janet E. Sharkc, Sr. Asst. Regional Counsel
U.S. EPA, Region III (3RC50)
1650 Arch Street
Philadelphia, PA 19103-2029
and
Ms. Lydia Guy, Regional Hearing Clerk
U.S. EPA, Region III (3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

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

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

56. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid

penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

57. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent for more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
58. Respondent agrees, for federal income tax purposes, that it will not deduct the civil penalty assessed herein and further agrees, for federal income tax purposes, that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.
59. The settlement in this proceeding is consistent with the provisions and objectives of EPCRA Section 313 and 40 C.F.R. Part 372.

X. Reservation of Rights

60. 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 public health, welfare or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in the Consolidated Rules of Practice at 40 C.F.R. § 22.18(c). Further, EPA reserves any rights or remedies available under EPCRA, the regulations promulgated thereunder, and any other federal laws and regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

XI. Other Applicable Laws

61. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

XII. Parties Bound

62. This CA and the accompanying FO shall apply to and be binding upon Complainant, Respondent, Respondent's officers and/or directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this CA on behalf of Respondent acknowledges that he or she is fully authorized to enter into this CA and to bind Respondent to the terms and conditions of this CA and the accompanying FO.

XIII. Full and Final Satisfaction

63. The settlement set forth herein shall resolve only Respondent's liability for federal civil penalties for the specific violations alleged herein. Compliance with the CAFO shall not be

a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

XIV. Effective Date

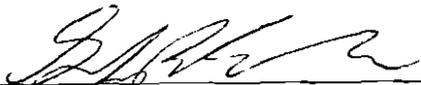
64. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Judicial Officer or Regional Administrator.

XV. Entire Agreement

65. This CA and the attached FO constitute the entire agreement and understanding of the Parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the Parties other than those expressed in this CA and the attached FO.

For Respondent:

Date: 6/15/11

By: 
Geoff Ginader, President
American Hollow Boring Co.

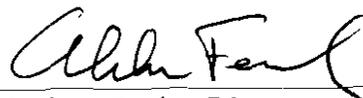
For Complainant:

Date: 6/17/2011

By: 
Janet E. Sharke
Senior Assistant Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 6/28/11

By: 
Abraham Ferdas, Director
Land and Chemicals Division

Attachment A
Scope of Work
Supplemental Environmental Project

American Hollow Boring Co. (AHB) has voluntarily agreed to perform this SEP in conjunction with entering in a Consent Agreement and Final Order with the U.S. Environmental Protection Agency (EPA). The purpose of the SEP is to eliminate the release into the environment of the toxic metals chromium and nickel contained in the "honing mud" which AHB has historically disposed of in a landfill (and eliminate the annual landfilling of approximately 10,000 pounds of "honing mud"). Phase 1 of the SEP entails the installation of drying beds to separate the honing mud into its components of residual lubricating oil and scrap chromium and nickel. Phase 2 of the SEP entails the addition of more drying beds as well as vibration, agitation and/or heat to accelerate and maximize the separation of the honing mud components. AHB will reuse the lubricating oil in its processes and send the recovered chromium and nickel offsite to its metals recycler. The due dates commence from the effective date of the CAFO:

Phase I

<u>Due Date</u>	<u>Task</u>	<u>Cost</u>
30 days	Initial Information Gathering (trials)	\$ 267.00
30 days	Design concept meetings	690.00
30 days	Sketches	401.00
30 days	Initial Design Review	431.00
30 days	Fabrication Drawings	712.00
30 days	Final Design Review	776.00
45 days	Fabrication of workstation	2796.00
60 days	Installation of workstation	1596.00
75 days	Training	<u>356.00</u>
	<i>Subtotal</i>	\$8025.00

Phase II

135 days	Concept to design as above of second workstation with heat and/or vibration to maximize separation	\$1583.00
150 days	Fabrication of second workstation	2796.00
180 days	Installation and training	<u>1596.00</u>
	<i>Subtotal</i>	5975.00
	<i>Total</i>	\$14,000.00

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

American Hollow Boring Co.

Docket No. EPCRA-03-2011-0097

Respondent

FINAL ORDER

American Hollow Boring Co.

1901 Raspberry Street

Erie, PA 16502

**Proceeding under EPCRA § 325(c),
42 U.S.C. § 11045(c)**

Facility

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, American Hollow Boring Co., 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 civil penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990)[amended]* (April 12, 2001) and the provisions and objectives of EPCRA § 313. **NOW, THEREFORE, PURSUANT TO** Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11045(c), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **Four Thousand Two Hundred Fifty Dollars (\$4,250.00)** and comply with the terms and conditions of the 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: 6/29/11



Renee Sarajian
Regional Judicial Officer
U.S. EPA, Region III

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I hand-delivered to the Regional Hearing Clerk of the U.S. Environmental Protection Agency, Region III, the original and one copy of the foregoing Consent Agreement and Final Order (Docket No. EPCRA-03-2011-0097).

I further certify that on the date set forth below, I caused a true and correct copy of the Consent Agreement and Final Order to be transmitted via facsimile and certified mail, return receipt requested, to the following addressees:

Geoffrey B. Ginader
President
American Hollow Boring Co.
1901 Raspberry Street
Erie, PA 16502

6/23/11
Date



Janet E. Sharke
Senior Assistant Regional Counsel
Office of Regional Counsel (3RC50)
U.S. EPA, Region III
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Philadelphia, PA 19103-2029