

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS**

IN THE MATTER OF:

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Nalco Company

Consent Agreement and Final Order
USEPA Docket No. RCRA-06-2024-0918

RESPONDENT

CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order ("CAFO") is entered into by the United States Environmental Protection Agency, Region 6 ("EPA" or "Complainant") and Respondent, Nalco Company ("Respondent" or "Nalco Company") and concerns the facility located at 3130 FM 521 Road in Fresno, Texas. ("Facility").
2. Notice of this action has been given to the State of Texas, under Section 3008(a)(2) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(2).¹

¹ On December 26, 1984, the State of Texas received final authorization for its base Hazardous Waste Management Program (49 FR 48300). Subsequent revisions have been made to the Texas Hazardous Waste Program and authorized by the EPA. Except as otherwise provided, all citations found within this order are to the "EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" dated December 2015, incorporated by reference under 40 C.F.R. § 272.2201(c)(1)(i) effective on April 10, 2020. 85 Fed. Reg. 20190 (April 10, 2020); 40 C.F.R. 272.2201: Texas State-Administered Program: Final Authorization. References and citations to the "EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program" may vary slightly from the State of Texas' published version. The corresponding C.F.R. citations are also provided.

3. For the purpose of this CAFO, Respondent admits the jurisdictional allegations herein; however, Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.
4. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), EPA may enforce the federally approved State of Texas's hazardous waste program.
5. Respondent waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO and waives all defenses which have been raised or could have been raised to the claim in the CAFO.
6. The CAFO resolves only those violations which are alleged herein.
7. Respondent consents to the issuance of this CAFO as the most appropriate means of settling EPA's allegations without any adjudication of issues of law or fact, consents to the assessment and payment of the civil penalty in the amount and by the method set out in this CAFO, and consents to the compliance order in this CAFO.
8. By their signatures to this CAFO, the EPA and Nalco Company (the "Parties") agree to the use of electronic signatures for this matter. The Parties further agree to electronic service of this CAFO, pursuant to 40 C.F.R. § 22.6, by email to the following addresses: EPA, Pittman.Lawrence@epa.gov and for Respondent, Katie.Roek@ecolab.com.

II. JURISDICTION

9. This CAFO is issued by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984 and is simultaneously commenced and concluded through the issuance of this CAFO under 40 Code of Federal Regulations ("C.F.R.") §§ 22.13(b) and 22.18(b)(2) and (3).

10. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of EPA to issue or enforce this CAFO and agrees not to contest the validity of this CAFO or its terms or conditions.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. Respondent is a company authorized to do business in the State of Texas.

12. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 30 Texas Admin. Code § 3.2(25), [40 C.F.R. § 260.10].

13. Respondent owns and operates the Facility.

14. The Facility is a manufacturer of chemical products for use in water treatment and oil and gas industries.

15. The Facility is a "facility" within the meaning of 30 Texas Admin. Code § 335.1(60), [40 C.F.R. § 260.10].

16. From August 30 to September 2, 2021, EPA conducted a RCRA Compliance and Enforcement Inspection, and a RCRA record review of the Facility's activities as a generator of hazardous waste (the "Inspection").

17. From the Inspection, EPA discovered that Respondent has generated multiple waste streams from its operations of the facility, to include obsolete or off-specification water-soluble products with high organic content; flammable oil/water emulsion laboratory waste; corrosive or flammable solids such as gels or non-pumpable solids; laboratory pack wastes; and rinse waters from process vessels, including methanol, xylenes, and toluene.

18. From the Inspection, EPA determined that the wastes generated in the waste streams identified in Paragraph 17, are “solid wastes” as defined by 30 Texas Admin. Code § 335.1(140), [40 C.F.R. § 261.2].
19. From the Inspection, EPA discovered that the wastes generated in the waste streams identified in Paragraph 17 contained listed wastes from non-specific sources and exhibit the characteristics for ignitability, toxicity, (for Cadmium, Benzene, and Chloroform) pursuant to 30 Texas Admin. Code § 335.1(70), [40 C.F.R. §§ 261.31, 261.21 and 261.24], respectively bearing the hazardous waste codes, F003, F005, D001, D006, D018, and D022.
20. From the Inspection, EPA discovered that the wastes generated in the waste streams identified in Paragraph 17, are “hazardous wastes” as defined in 30 Texas Admin. Code § 335.1(70), [40 C.F.R. § 261.10].
21. From the Inspection, EPA discovered that Respondent generated and offered for transport and treatment, hazardous wastes from January 2019 to May 2020.
22. Based on its review of the Inspection, EPA determined that Respondent generated hazardous waste streams in quantities that exceeded the threshold amount of 1000 kilograms of non-acute hazardous waste in a month, corresponding to Large Quantity Generator (“LQG”) status under 30 Texas Admin. Code, Chapter 335, Subchapter C, [40 C.F.R. Part 262], for the periods that such wastes remained onsite.
23. Respondent is a "generator" of "hazardous waste" as those terms are defined in 30 Texas Admin. Code §§ 335.1(66) & (70), [40 C.F.R. § 260.10].

24. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth in 30 Texas Admin. Code Chapter 335, Subchapter C, [40 C.F.R Part 262].
25. In a conference call on May 25, 2023, EPA conferred with Respondent regarding the violations alleged herein.

IV. FACTUAL ALLEGATIONS AND ALLEGED VIOLATIONS

Claim 1. Failure to meet Level 1 air emission control applicable to tanks under RCRA Subpart CC of 40 C.F.R. Part 265

26. The allegations in Paragraphs 1-25 are re-alleged and incorporated herein by reference.
27. Pursuant to 30 Tex. Admin. Code § 335.69(a)(1)(B), [40 C.F.R. § 262.34(a)(1)(ii)], a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the waste is placed in tanks and the generator complies with the applicable requirements of Subparts J, AA, BB, and CC of 40 C.F.R. Part 265 except §§ 265.197(c) and 265.200.
28. During the Inspection, EPA observed and documented that Respondent stores its hazardous waste in management unit(s) that are “Tanks” as this term is defined in 30 Texas Admin. Code § 335.1(149), [40 C.F.R. § 260.10].
29. For purpose of this CAFO and for the time period alleged herein, the requirements of 30 Tex. Admin. Code § 335.112(a)(21), [40 C.F.R. subpart CC Part 265] are applicable as Respondent manages its hazardous waste in Tanks.
30. Pursuant to 30 Texas Admin. Code § 335.112(a)(21), [40 C.F.R. § 265.1083(b)], the owner or operator shall control air pollutant emissions from each hazardous waste management unit, in

accordance with standards specified in 40 C.F.R. §§ 265.1085 through 265.1088 of this subpart, as applicable to the hazardous waste management unit, except as provided for in paragraph (c) of this section.

31. The exemption(s) of Texas Admin. Code § 335.112(a)(21), [40 C.F.R. § 265.1083(c)], are not applicable to this claim and as such the standards of 30 Texas Admin. Code § 335.112(a)(21), [40 C.F.R. § 265.1085(c)(2)(ii)] are applicable.
32. Pursuant to 30 Texas Admin. Code § 335.112(a)(21), [40 C.F.R. § 265.1085(c)(2)(ii)], owners and operators controlling air pollutant emissions from a tank using Tank Level 1 controls shall be equipped with a fixed roof designed to meet the following specifications: The fixed roof shall be installed in a manner such that there are no visible cracks, holes, gaps, or other open spaces between roof section joints or between the interface of the roof edge and the tank wall.
33. At the time of the Inspection, EPA inspectors observed a visible leak of organic vapors from the roof of tank 7920 using a FLIR camera, which appeared to originate from the open-ended line of an out-of-service level gauge on the roof of the tank.
34. Respondent failed to control air pollutant emissions from tank 7920 by failing to assure that the fixed roof of tank 7920 had no visible cracks, holes, gaps or other open spaces in violation of 30 Texas Admin. Code § 335.112(a)(21), [40 C.F.R. § 265.1085(c)(2)(ii)].

Claim 2. Failure to meet inspection requirements for tanks subject to level 1 control under subpart CC of 40 C.F.R. Part 265

35. The allegations in Paragraphs 1-25 are realleged and incorporated by reference.

36. Pursuant to 30 Tex. Admin. Code § 335.69(a)(1)(B), [40 C.F.R. § 262.34(a)(1)], a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that: (1) the waste is placed: (ii) in tanks and the generator complies with the applicable requirements of subparts J, AA, BB, and CC of 40 C.F.R. Part 265 except §§ 265.197(c) and 265.200. Pursuant to 30 Texas Admin. Code § 335.112(a)(21), [40 C.F.R. § 265.1085(c)(4)(i)], owners and operators controlling air pollutant emissions from a tank using Tank Level 1 controls shall inspect the fixed roof and its closure devices visually to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the roof sections or between the roof and the tank wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices.
37. During the Inspection, EPA observed and documented that Respondent stores its hazardous waste in management unit(s) that are “Tanks” as this term is defined in 30 Texas Admin. Code § 335.1(149), [40 C.F.R. § 260.10].
38. For purpose of this CAFO and for the time period alleged herein, the requirements of 30 Tex. Admin. Code § 335.112(a)(21), [40 C.F.R. subpart CC Part 265] are applicable as Respondent manages its hazardous waste in Tanks.
39. Pursuant to 30 Texas Admin. Code § 335.112(a)(21), [40 C.F.R. § 265.1083(b)], the owner or operator shall control air pollutant emissions from each hazardous waste management unit, in accordance with standards specified in 40 C.F.R. §§ 265.1085 through 265.1088 of this subpart, as applicable to the hazardous waste management unit, except as provided for in paragraph (c) of this section.

40. The exemption(s) of Texas Admin. Code § 335.112(a)(21), [40 C.F.R. § 265.1083(c)], are not applicable to this claim and as such the standards of 30 Texas Admin. Code § 335.112(a)(21), [40 C.F.R. § 265.1085(c)(2)(ii)] are applicable.
41. At the time of Inspection, EPA inspectors observed Respondent's annual inspection for tank 7920. Respondent's annual inspection of tank 7920 did not locate the open-ended level gauge on the roof of tank 7920 as a readily visible gap or hole that did not meet the specifications of a fixed roof.
42. Respondent failed to meet inspection requirements for tanks subject to level 1 control under Subpart CC of 40 C.F.R. Part 265 for tank 7920 by failing to check for defects that could result in air pollutant emissions, in violation of 30 Texas Admin. Code § 335.112(a)(21), [40 C.F.R. § 265.1085(c)(4)(i)].

Claim 3. Failure to meet Recordkeeping requirements

43. The allegations in Paragraphs 1-25 are realleged and incorporated by reference.
44. Pursuant to 30 Tex. Admin. Code § 335.69(a)(1)(B), [40 C.F.R. § 262.34(a)(1)], a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that: (1) the waste is placed: (ii) in tanks and the generator complies with the applicable requirements of Subparts J, AA, BB, and CC of 40 C.F.R. Part 265 except §§ 265.197(c) and 265.200. Pursuant to 30 Texas Admin. Code § 335.112(a)(20), [40 C.F.R. § 265.1064(b)(1)(i) – (vi)], owners and operators must record the following information in the facility operating record for each piece of equipment to which Subpart BB 40 C.F.R. Part 265 applies: Equipment identification number and hazardous waste management unit

identification; Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan); Type of equipment (e.g., a pump or pipeline valve); Percent-by-weight total organics in the hazardous waste stream at the equipment; Hazardous waste state at the equipment (e.g., gas/vapor or liquid); and Method of compliance with the standard (e.g., “monthly leak detection and repair” or “equipped with dual mechanical seals”).

45. At the time of the Inspection, Respondent failed to adequately identify and maintain records of the components upstream of tank 7920 that contain or contact hazardous waste with organics concentrations of at least 10%, subject to RCRA Subpart BB 40 C.F.R. Part 265, in violation of 30 Texas Admin. Code § 335.112(a)(20), [40 C.F.R. § 265.1064(b)(1)(i) – (vi)].

Claim 4. Failure to meet open-ended line standards

46. The allegations in Paragraphs 1-25 are realleged and incorporated by reference.

47. Pursuant to 30 Tex. Admin. Code § 335.69(a)(1)(B), [40 C.F.R. § 262.34(a)(1)], a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that: (1) the waste is placed: (ii) in tanks and the generator complies with the applicable requirements of Subparts J, AA, BB, and CC of 40 C.F.R. Part 265 except §§ 265.197(c) and 265.200. Pursuant to 30 Texas Admin. Code § 335.112(a)(20), [40 C.F.R. § 265.1056(a)(1)], each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve.

48. At the time of Inspection, Respondent failed to equip three open-ended lines with a cap, blind flange, plug, or a second valve, in violation of 30 Texas Admin. Code § 335.112(a)(20), [40 C.F.R. § 265.1056(a)(1)].

Claim 5. Failure to properly manage containers

49. The allegations in Paragraphs 1-25 are realleged and incorporated by reference.

50. Pursuant to 30 Tex. Admin. Code § 335.69(d)(1), [40 C.F.R. § 262.34(c)(1)], a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in § 261.31 or § 261.33(e) in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) or (d) of this section provided he: (i) Complies with §§ 265.171, 265.172, and 265.173(a) of this chapter. Pursuant to 30 Tex. Admin. Code § 335.112(a)(8), [40 C.F.R. § 265.173(a)], a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

51. At the time of the Inspection, Respondent failed to close a hazardous waste satellite accumulation drum in violation of 30 Tex. Admin. Code § 335.112(a)(8), [40 C.F.R. § 265.173(a)].

Claim 6. Failure to file hazardous waste notification

52. The allegations in Paragraphs 1-25 are realleged and incorporated by reference.

53. Pursuant to 30 Tex. Admin. Code § 335.6(c) and Section 3010 of RCRA 42 U.S.C. § 6930(a), [40 C.F.R. § 270.1(b)], any person generating a characteristic or listed hazardous waste shall file with EPA or the authorized state a notification stating the location and general description of such activity and the identified characteristic or listed hazardous waste handled by such person. No identified characteristic or listed hazardous waste subject to this subchapter may be

transported, treated, stored, or disposed of unless notification has been given as required by Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

54. Respondent failed to file with the EPA or the State of Texas, an authorized state, a notification stating the location and general descriptions of its hazardous waste activities at the Facility during 2019 and 2020 in violation of to 30 Tex. Admin. Code § 335.6(c) and Section 3010 of RCRA 42 U.S.C. § 6930(a), [40 C.F.R. § 270.1(b)].

V. COMPLIANCE ORDER

55. Pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and **within 60 calendar days** of the effective date of this CAFO, Respondent shall provide in writing the following:

- A. Respondent shall certify that it has assessed all its solid waste streams at the Nalco Facility to determine the accurate waste codes and has developed and implemented standard operating procedures ("SOPs") to ensure that Respondent is operating the Nalco Facility in compliance with RCRA and the regulations promulgated thereunder, including, but not limited to, procedures for: (a) making hazardous waste determinations; (b) managing hazardous wastes; (c) reporting, transporting, and disposing of hazardous waste; (d) preparing its manifests; and (e) meeting the requirements of the land disposal requirements;
- B. Respondent shall certify that it has accurately and adequately complied with its RCRA Section 3010 notification for the Nalco Facility and within the prescribed time period; and
- C. Respondent shall provide, with its certification, a copy of Respondent's SOPs as described in subparagraph A above.

56. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of the Respondent and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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 fine and imprisonment for knowing violations."

Copies of all documents required by this CAFO shall be sent to the following:

U.S. EPA, Region 6
1201 Elm Street, Suite 500
Enforcement and Compliance Assurance Division (ECDSR)
ATTN: Tripti Thapa
Dallas, Texas 75270-2102

Where possible, notice shall be sent electronically by email to Enforcement Officer Tripti Thapa, respectively at thapa.tripti@epa.gov.

VI. TERMS OF SETTLEMENT

A. Penalty Provisions

57. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a **civil penalty of one hundred and twenty-seven thousand, five hundred and twenty dollars (\$127,520.00)**.

58. The penalty shall be **paid within thirty (30) calendar days** of the effective date of this CAFO and made payable to the Treasurer United States.

59. The EPA web address, <https://www.epa.gov/financial/additional-instructions-making-payments-epa>, provides a list of options available for transmitting payment of penalties.

Options for payment include:

A. Electronic payments via Pay.gov. <https://www.pay.gov/public/form/start/11751879>

B. Remittance by Regular Mail, U.S. Postal Mail (including certified mail) or U.S. Postal Service

Express Mail. The check should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979078
St. Louis, Missouri 63197-9000

C. Overnight Mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, MO 63045

D. Wire Transfer:

Federal Reserve Bank of New York
ABA: 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

The case name and docket number (**In the Matter Nalco Company, Docket No. RCRA-06-2024-0918**) shall be clearly documented on or within the chosen method of payment to ensure proper credit.

60. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn
Regional Hearing Clerk (ORC)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102

U.S. EPA, Region 6
1201 Elm Street, Suite 500
Enforcement and Compliance Assurance Division (ECDSR)
ATTN: Tripti Thapa
Dallas, Texas 75270-2102

Respondent's adherence to this request will ensure proper credit is given when penalties are received by EPA.

61. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and 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).

62. Moreover, the costs of the Agency's administrative handling overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each

subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

63. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of the Compliance Order and payment of the civil penalty are restitution, remediation, or required to come into compliance with the law.

B. Costs

64. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

C. Tax Reporting

65. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution

or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- A. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- B. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- C. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at chalifoux.jessica@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- D. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding subparagraph, shall further:
 - i. notify EPA’s Cincinnati Finance Center of this fact, via email, within 30 days after the Effective Date of this Order; and

- ii. provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

D. Termination and Satisfaction

66. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall also certify this in writing and in accordance with the certification language set forth in Section V (Compliance Order). Unless the EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

E. Effective Date of Settlement

67. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:

FOR THE RESPONDENT:

Date: _____

Nalco Company

FOR THE COMPLAINANT:

Date: _____

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6, Dallas, Texas

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: _____

Thomas Rucki
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was filed with me, to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the email addresses:

Copy via Email to Complainant, EPA:

pittman.lawrence@epa.gov

Copy via Email to Respondent:

katie.roek@ecolab.com

jlpennington@ecolab.com

Regional Hearing Clerk
U.S. EPA, Region 6