

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

In the Matter of:	:	
	:	U.S. EPA Docket No. CERCLA-EPCRA-03-2021-0070
Dutton’s Mill Associates, L.P., dba	:	Proceeding under Sections 103 and 109
IceWorks Skating Complex	:	of the Comprehensive Environmental Response,
701 W Dutton Mill Road	:	Compensation, and Liability Act,
Aston, PA 19014,	:	42 U.S.C. §§ 9603 and 9609, and Sections
	:	304, 312, and 325 of the Emergency Planning and
Respondent.	:	Community Right-to-Know Act,
	:	42 U.S.C. §§ 11004, 11022, 11045
IceWorks Skating Complex	:	
3100 Dutton Mill Road	:	
Aston, PA 19014,	:	
	:	
Facility.	:	

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Dutton’s Mill Associates, L.P., dba IceWorks Skating Complex (“Respondent”) (collectively the “Parties”), pursuant to 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, and 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. Section 109 of CERCLA vests the President of the United States with the authority to assess penalties and undertake other actions required by this Consent Agreement, which authority has been delegated to the Administrator of the U.S. Environmental Protection Agency (“EPA”). Section 325 of EPCRA authorizes the Administrator of the EPA to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated these authorities to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under CERCLA and EPCRA for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(7) and (8).

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
12. The allegations of Paragraphs 1 through 11 of this Consent Agreement are incorporated herein by reference.
13. Respondent is a limited partnership operating in the State of Pennsylvania, with its headquarters located at 701 Dutton Mills Road, Aston, PA 19014.

14. Respondent is the owner of the IceWorks skating complex, located at 3100 Dutton Mill Road, Aston, Pennsylvania 19014 (the "Facility").
15. The Facility is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9); Section 329(4) of EPCRA, 42 U.S.C. § 11049(4); and their respective regulations, 40 C.F.R. §§ 302.3, 355.61, and 370.66.
16. At all times relevant to this Consent Agreement and Final Order, Respondent has been in charge of the Facility, within the meaning of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).
17. 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 Sections 304 and 312 of EPCRA, 42 U.S.C. § 11004, 11022, and 40 C.F.R. §§ 355.2 and 370.2.
18. At all times relevant to this Consent Agreement and Final Order, anhydrous ammonia, a hazardous substance, was produced, used or stored at the Facility.
19. On August 2, 2018, over the course of an hour (approximately 7:30 p.m. to 8:30 p.m.) approximately 600 pounds of ammonia was inadvertently released from a gasket in the compressor of the Facility's refrigeration system.
20. On February 13, 2019, EPA conducted an inspection of the Facility to determine Respondent's compliance with Section 103 of CERCLA and Sections 302-312 of EPCRA in response to the August 2, 2018 release of anhydrous ammonia from the Facility. EPA gathered information relevant to Respondent's compliance with Section 103 of CERCLA and Sections 302-312 of EPCRA. During and after the inspection, Respondent submitted information to EPA regarding its compliance with CERCLA and EPCRA.

Count I

Failure to Immediately Notify the National Response Center of a Release

21. The allegations of Paragraphs 1 through 20 of this Consent Agreement are incorporated herein by reference.
22. CERCLA Section 103(a), 42 U.S.C. § 9603(a), requires any person in charge of a facility, as soon as he has knowledge of a release of a hazardous substance from such facility, in a quantity equal to or greater than the reportable quantity ("RQ") for that hazardous substance, to immediately notify the National Response Center ("NRC") of the release.
23. Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), requires the Administrator of the 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). The list of hazardous substances is codified at 40 C.F.R. § 302.4.
24. Section 302(a) of EPCRA, 42 U.S.C. § 11002(a), requires the Administrator of EPA to publish a list of Extremely Hazardous Substances ("EHSs") and to promulgate regulations establishing that quantity of any EHS the release of which shall be required to be reported under Section 304(a) through (c) of EPCRA, 42 U.S.C. § 11004(a) through (c), ("Reportable Quantity" or "RQ"). The list of EHSs and their respective RQs is codified at 40 C.F.R. Part 355, Appendices A and B.
 25. Ammonia 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, and an EHS as defined under Section 302(a) of EPCRA, 42 U.S.C. § 11002(a), and 40 C.F.R. § 355.61, with an RQ of 100 pounds, as listed in 40 C.F.R. Part 355, Appendices A and B, and 40 C.F.R. § 302.4.
 26. The 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).
 27. The release was not a "federally permitted release" as that term is defined in Section 101(10) of CERCLA, 42 U.S.C. § 9601(10), and used in Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6.
 28. Respondent first became aware that the release had occurred at approximately 7:30 p.m. on August 2, 2018, when an employee reported smelling an ammonia-like odor.
 29. Respondent did not report the release to the NRC.
 30. Respondent failed to immediately notify the NRC of the 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.
 31. In failing to comply with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. Part 302, Respondent is subject to the assessment of penalties under Section 109(a) of CERCLA, 42 U.S.C. § 9609(a).

Count II

Failure to Immediately Notify the State Emergency Response Commission of a Release

32. The allegations of Paragraphs 1 through 31 of this Consent Agreement are incorporated herein by reference.
33. The State Emergency Response Commission ("SERC") for the Facility is, and at all times relevant to this Consent Agreement and Final Order has been, the Pennsylvania Emergency Management Agency.

34. Section 304(a)(1) and (b) of EPCRA, 42 U.S.C. § 11004(a)(1) and (b), as implemented by 40 C.F.R. Part 355, Subpart C, requires, in relevant part, the owner or operator of a facility at which hazardous chemicals are produced, used, or stored to notify the SERC immediately following the release of an EHS in an amount exceeding the RQ for such substance.
35. The release from the Facility constituted a release of an EHS in a quantity equal to or exceeding the RQ for that EHS, requiring immediate notification of the SERC pursuant to Section 304(a)(1) and (b) of EPCRA, 42 U.S.C. § 11004(a)(1) and (b).
36. According to a certified statement provided to EPA from the SERC, Respondent did not report the release to the SERC.
37. Respondent failed to immediately notify the SERC as soon as Respondent knew or should have known that a release of an EHS had occurred at the Facility in an amount equal to or exceeding the applicable RQ.
38. Respondent violated Section 304(a)(1) and (b) of EPCRA, 42 U.S.C. § 11004(a)(1) and (b), and the relevant regulations at 40 C.F.R. Part 355, Subpart C, by failing to immediately notify the SERC as soon as it had knowledge of the release of an EHS from the Facility in a quantity greater than the RQ.
39. In failing to comply with Section 304(a)(1) and (b) of EPCRA, 42 U.S.C. § 11004(a)(1) and (b), and 40 C.F.R. Part 355, Subpart C, Respondent is subject to the assessment of penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b).

Count III
Failure to Comply with Section 312 of EPCRA - 2017

40. The allegations of Paragraphs 1 through 39 of this Consent Agreement are incorporated herein by reference.
41. Section 312 of EPCRA, 42 U.S.C. § 11022, as implemented by 40 C.F.R. Part 370, requires the owner or operator of a facility required to prepare or have available an M/SDS for a hazardous chemical in accordance with the OSHA Hazard Communication Standard, 29 U.S.C. §§ 651 et seq., and 29 C.F.R. § 1910.1200, and at which facility a hazardous chemical (including, but not limited to, a hazardous chemical which also qualifies as an EHS) is present at any one time during a calendar year in a quantity equal to or greater than its applicable minimum threshold level for reporting (“MTL”) or threshold planning quantity to submit on or before March 1, 1988, and by March 1st of each year thereafter, a completed Chemical Inventory Form identifying the hazardous chemical and providing the information described in Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), to the appropriate SERC, LEPC, and local fire department with jurisdiction over the Facility.

42. Ammonia and sulfuric acid are "hazardous chemicals" as defined by Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and are subject to Section 312 of EPCRA, 42 U.S.C. § 11022, pursuant to Section 312(c) of EPCRA, 42 U.S.C. § 11022(c).
43. Pursuant to 40 C.F.R. § 370.10, the MTLs for ammonia and sulfuric acid is 500 pounds.
44. According to information provided to EPA by Respondent, Respondent had present at the Facility two hazardous chemicals, ammonia and sulfuric acid (contained in the rechargeable batteries of two electric Zambonis), in an amount exceeding their MTL during calendar year 2017.
45. Respondent did not submit a Chemical Inventory Form to the SERC, the LEPC or the local fire department for the ammonia and sulfuric acid present at the Facility in an amount exceeding its MTL during calendar year 2017 by March 1, 2018, nor did it provide the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d).

Count IV
Failure to Comply with Section 312 of EPCRA – 2016

46. The allegations of Paragraphs 1 through 45 of this Consent Agreement are incorporated herein by reference.
47. According to information provided to EPA by Respondent, Respondent had present at the Facility two hazardous chemicals, ammonia and sulfuric acid, in an amount exceeding their MTL during calendar year 2016.
48. Respondent did not submit a Chemical Inventory Form to the SERC, the LEPC or the local fire department for the ammonia and sulfuric acid present at the Facility in an amount exceeding their MTL during calendar year 2016 by March 1, 2017, nor did it provide the information required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d).
49. In failing to comply with Section 312 of EPCRA, 42 U.S.C. § 11022, Respondent is subject to the assessment of penalties under Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1).

CIVIL PENALTY

50. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **THIRTY THOUSAND ONE HUNDRED AND FOURTY-EIGHT DOLLARS (\$30,148)**, which total includes **NINE THOUSAND SIX HUNDRED AND FORTY SEVEN DOLLARS AND THIRTY SIX CENTS (\$9,647.36)** for alleged violations of Section 103 of CERCLA, 42 U.S.C. § 9603 ("CERCLA civil penalty"), and **TWENTY THOUSAND FIVE HUNDRED DOLLARS AND SIXTY FOUR CENTS (\$20,500.64)** for alleged violations of Section 304(a)(1), (b), and 312 of EPCRA, 42

U.S.C. § 11004(a)(1), (b), and 11022 (“EPCRA civil penalty”), which Respondent shall be liable to pay in accordance with the terms set forth below.

51. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in Section 325(b)(1)(C) of EPCRA, 42 U.S.C. § 11045(b)(1)(C) and Section 109(a)(3) of CERCLA, 42 U.S.C. § 9609(a)(3), including, the following: the nature, circumstances, extent and gravity of the violation or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to 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)*, which reflects the statutory penalty criteria and factors set forth at Section 325(b)(1)(C) of EPCRA and Section 109(a)(3) of CERCLA, the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.
52. The civil penalty is also based upon an analysis of Respondent’s ability to pay a civil penalty. This analysis was based upon information submitted to EPA by Respondent, including the following: a certified statement from Respondent stating that it lost a minimum of 25% of its revenue or income from mid-March 2020 to the present due to COVID-19. It is Complainant’s conclusion that the Respondent has established that it is unable to pay the full amount of the civil penalty identified and set forth in Paragraph 50, above, within thirty (30) days of the effective date of this Consent Agreement and that a payment plan of the nature and duration set forth below is necessary and appropriate.
53. Pursuant to the provision of this Consent Agreement, Respondent will remit a total civil penalty of \$30,148 and interest in accordance with the installment payment schedule set forth immediately below:
 - a. 1st CERCLA Payment: The first payment in the amount of \$540.18, consisting of a principal payment of \$540.18 and an interest payment of \$0, shall be paid within one (1) month of the Effective Date of this Agreement;

1st EPCRA Payment: The first payment in the amount of \$1,147.89, consisting of a principal payment of \$1,147.89 and an interest payment of \$0, shall be paid within one (1) month of the Effective Date of this Agreement;
 - b. 2nd CERCLA Payment: The second payment in the amount of \$540.18, consisting of a principal payment of \$524.99 and an interest payment of \$15.19, shall be paid within two (2) months of the Effective Date of this Agreement;

2nd EPCRA Payment: The second payment in the amount of \$1,147.89, consisting of a principal payment of \$1,115.62 and an interest payment of 32.27, shall be paid within two (2) months of the Effective Date of this Agreement;

- c. 3rd CERCLA Payment: The third payment in the amount of \$540.18, consisting of a principal payment of \$533.03 and an interest payment of \$7.15, shall be paid within three (3) months of the Effective Date of this Agreement;

3rd EPCRA Payment: The third payment in the amount of \$1,147.89, consisting of a principal payment of \$1,132.70 and an interest payment of \$15.19, shall be paid within three (3) months of the Effective Date of this Agreement;

- d. 4th CERCLA Payment: The fourth payment in the amount of \$540.18, consisting of a principal payment of \$533.48 and an interest payment of \$6.70, shall be paid within four (4) months of the Effective Date of this Agreement;

4th EPCRA Payment: The fourth payment in the amount of \$1,147.89, consisting of a principal payment of \$1,133.65 and an interest payment of \$14.24, shall be paid within four (4) months of the Effective Date of this Agreement;

- e. 5th CERCLA Payment: The fifth payment in the amount of \$540.18, consisting of a principal payment of \$533.93 and an interest payment of \$6.25, shall be paid within five (5) months of the Effective Date of this Agreement;

5th EPCRA Payment: The fifth payment in the amount of \$1,147.89, consisting of a principal payment of \$1,134.60 and an interest payment of \$13.29, shall be paid within five (5) months of the Effective Date of this Agreement;

- f. 6th CERCLA Payment: The sixth payment in the amount of \$540.18, consisting of a principal payment of \$534.37 and an interest payment of \$5.81, shall be paid within six (6) months of the Effective Date of this Agreement;

6th EPCRA Payment: The sixth payment in the amount of \$1,147.89, consisting of a principal payment of \$1,135.55 and an interest payment of \$12.34, shall be paid within six (6) months of the Effective Date of this Agreement;

- g. 7th CERCLA Payment: The seventh payment in the amount of \$540.18, consisting of a principal payment of \$538.82 and an interest payment of \$5.36, shall be paid within seven (7) months of the Effective Date of this Agreement;

7th EPCRA Payment: The seventh payment in the amount of \$1,147.89, consisting of a principal payment of \$1,136.50 and an interest payment of \$11.39, shall be paid within seven (7) months of the Effective Date of this Agreement;

- h. 8th CERCLA Payment: The eighth payment in the amount of \$540.18, consisting of a principal payment of \$535.27 and an interest payment of \$4.91, shall be paid within eight (8) months of the Effective Date of this Agreement;

8th EPCRA Payment: The eighth payment in the amount of \$1,147.89, consisting of a principal payment of \$1,137.45 and an interest payment of \$10.44, shall be paid within eight (8) months of the Effective Date of this Agreement;

- i. 9th CERCLA Payment: The ninth payment in the amount of \$540.18, consisting of a principal payment of \$535.71 and an interest payment of \$4.47, shall be paid within nine (9) months of the Effective Date of this Agreement;

9th EPCRA Payment: The ninth payment in the amount of \$1,147.89, consisting of a principal payment of \$1,138.40 and an interest payment of \$9.49, shall be paid within nine (9) months of the Effective Date of this Agreement;

- j. 10th CERCLA Payment: The tenth payment in the amount of \$540.18, consisting of a principal payment of \$536.16 and an interest payment of \$4.02, shall be paid within ten (10) months of the Effective Date of this Agreement;

10th EPCRA Payment: The tenth payment in the amount of \$1,147.89, consisting of a principal payment of \$1,139.35 and an interest payment of \$8.54, shall be paid within ten (10) months of the Effective Date of this Agreement;

- k. 11th CERCLA Payment: The eleventh payment in the amount of \$540.18, consisting of a principal payment of \$536.61 and an interest payment of \$3.57, shall be paid within eleven (11) months of the Effective Date of this Agreement;

11th EPCRA Payment: The eleventh payment in the amount of \$1,147.89, consisting of a principal payment of \$1,140.30 and an interest payment of \$7.59, shall be paid within eleven (11) months of the Effective Date of this Agreement;

- l. 12th CERCLA Payment: The twelfth payment in the amount of \$540.18, consisting of a principal payment of \$537.05 and an interest payment of \$3.13, shall be paid within twelve (12) months of the Effective Date of this Agreement.

12th EPCRA Payment: The twelfth payment in the amount of \$1,147.89, consisting of a principal payment of \$1,141.25 and an interest payment of \$6.64, shall be paid within twelve (12) months of the Effective Date of this Agreement;

- m. 13th CERCLA Payment: The thirteenth payment in the amount of \$540.18, consisting of a principal payment of \$537.50 and an interest payment of \$2.68, shall be paid within thirteen (13) months of the Effective Date of this Agreement.

13th EPCRA Payment: The thirteenth payment in the amount of \$1,147.89, consisting of a principal payment of \$1,142.20 and an interest payment of \$5.69, shall be paid within thirteen (13) months of the Effective Date of this Agreement;

- n. 14th CERCLA Payment: The fourteenth payment in the amount of \$540.18, consisting of a principal payment of \$537.95 and an interest payment of \$2.23, shall be paid within fourteen (14) months of the Effective Date of this Agreement.

14th EPCRA Payment: The fourteenth payment in the amount of \$1,147.89, consisting of a principal payment of \$1,143.14 and an interest payment of \$4.75, shall be paid within fourteen (14) months of the Effective Date of this Agreement;

- o. 15th CERCLA Payment: The fifteenth payment in the amount of \$540.18, consisting of a principal payment of \$538.39 and an interest payment of \$1.79, shall be paid within fifteen (15) months of the Effective Date of this Agreement.

15th EPCRA Payment: The fifteenth payment in the amount of \$1,147.89, consisting of a principal payment of \$1,144.09 and an interest payment of \$3.80, shall be paid within fifteen (15) months of the Effective Date of this Agreement;

- p. 16th CERCLA Payment: The sixteenth payment in the amount of \$540.18, consisting of a principal payment of \$538.84 and an interest payment of \$1.34, shall be paid within sixteen (16) months of the Effective Date of this Agreement.

16th EPCRA Payment: The sixteenth payment in the amount of \$1,147.89, consisting of a principal payment of \$1,145.04 and an interest payment of \$2.85, shall be paid within sixteen (16) months of the Effective Date of this Agreement;

- q. 17th CERCLA Payment: The seventeenth payment in the amount of \$540.18, consisting of a principal payment of \$539.29 and an interest payment of \$.89, shall be paid within seventeen (17) months of the Effective Date of this Agreement.

17th EPCRA Payment: The seventeenth payment in the amount of \$1,147.89, consisting of a principal payment of \$1,145.99 and an interest payment of \$1.90, shall be paid within seventeen (17) months of the Effective Date of this Agreement;

- r. 18th CERCLA Payment: The eighteenth payment in the amount of \$540.18, consisting of a principal payment of \$539.78 and an interest payment of \$.40, shall be paid within eighteen (18) months of the Effective Date of this Agreement.

18th EPCRA Payment: The eighteen payment in the amount of \$1,147.89, consisting of a principal payment of \$1,146.91 and an interest payment of \$.98, shall be paid within eighteen (18) months of the Effective Date of this Agreement.

- 54. If Respondent fails to make timely payment of any one of the required installment payments in accordance with the installment payment schedule set forth in Paragraph 53,

immediately above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for, and shall pay, applicable interest, administrative handling charges and late payment penalty charges as described in Paragraphs 59 through 61, below, in the event of any such failure or default.

55. Respondent may, at any time after commencement of payments under the installment payment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.

56. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, CERCLA-EPCRA-03-2021-0070.

b. CERCLA Civil Penalty - \$9,647.36

i. All checks in payment of the CERCLA civil penalty shall be made payable to the "EPA-Hazardous Substances Superfund";

ii. All payments made by check in payment of the CERCLA civil penalty and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

c. EPCRA Civil Penalty - \$20,500.64

i. All checks shall be made payable to the "United States Treasury";

ii. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously to:

Jefferie Garcia
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC20)
1650 Arch Street
Philadelphia, PA 19103-2029
garcia.jefferie@epa.gov

57. 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 of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
58. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
59. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order 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).
60. ADMINISTRATIVE COSTS: The costs of the EPA'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 – Case 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.

61. LATE PAYMENT PENALTY: A late payment penalty of six percent 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). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
62. Failure by the Respondent to pay the CERCLA civil penalty and the EPCRA civil penalty assessed by the Final Order in accordance with the terms of this Consent Agreement and Final Order 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.
63. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

64. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
65. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

OTHER APPLICABLE LAWS

66. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver,

suspension or modification of the requirements of the CERCLA, EPCRA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

67. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violation[s] alleged against Respondent in this Consent Agreement and Final Order. 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. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under CERCLA, EPCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

68. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

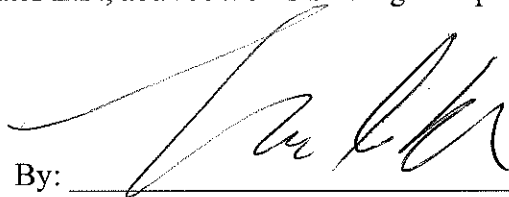
69. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

70. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: Dutton Mills, Associates L.P., dba IceWorks Skating Complex

Date: 4.29.21

By: 
Michael P. DiSain

[SIGNATORY NAME]
[SIGNATORY TITLE]

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: _____

By: _____

Karen Melvin
Director, Enforcement and Compliance
Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: _____

By: _____

Jefferie Garcia
Sr. Assistant Regional Counsel
U.S. EPA – Region III

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

In the Matter of:

**Dutton’s Mill Associates, L.P.,
dba IceWorks Skating Complex
701 W Dutton Mill Road
Aston, PA 19014,**

Respondent.

**IceWorks Skating Complex
3100 Dutton Mill Road
Aston, PA 19014,**

Facility.

EPA Docket Nos. CERCLA-EPCRA-03-2021-0070

FINAL ORDER

**Proceeding under Sections 103 and 109
of the Comprehensive Environmental Response,
Compensation, and Liability Act, 42 U.S.C. §§ 9603
and 9609, and Sections 304, 312, and 325 of the
Emergency Planning and Community Right-to-
Know Act, 42 U.S.C. §§ 11004, 11022, 11045**

FINAL ORDER

Complainant, the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Dutton’s Mill Associates, L.P., *dba* IceWorks Skating Complex, 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 upon 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, dated September 30, 1999, and the statutory factors set forth in Comprehensive Emergency Response, Compensation and Liability Act (“CERCLA”) Section 109(a)(3), 42 U.S.C. § 9609(a)(3), and Emergency Planning and Community Right-to-Know Act (“EPCRA”) Section 325(b)(1)(C), 42 U.S.C. § 11045(b)(1)(C).

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 **THIRTY THOUSAND ONE HUNDRED AND FORTY EIGHT DOLLARS (\$30,148.00)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of CERCLA and EPCRA and the regulations promulgated thereunder.

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.

Date

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