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

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EPA REGION III, PHILA. PA

In the Matter of:)	
)	EPA Docket No.: CERC-EPC-03-2015-0015
Kemira Water Solutions, Inc.)	
1000 Parkwood Circle, Suite 500)	
Atlanta, Georgia)	Proceedings Pursuant to Sections 103 and 109
30339,)	of the Comprehensive Environmental Response,
)	Compensation, and Liability Act, 42 U.S.C.
Respondent.)	§§ 9603, 9609, and Sections 304 and 325 of the
)	Emergency Planning and Community Right-
)	to-Know Act, 42 U.S.C. §§ 11004, 11045
)	
Kemira Water Solutions, Inc.)	
3925 Fort Armistead Road)	
Baltimore, Maryland)	
21226,)	
)	
Facility.)	
)	

CONSENT AGREEMENT

STATUTORY AUTHORITY

This Consent Agreement is proposed and entered into under the authority vested in the President of the United States by Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), as amended, 42 U.S.C. § 9609. The President has delegated this authority to the Administrator of the U.S. Environmental Protection Agency ("EPA"), who has, in turn, delegated it to the Regional Administrator of EPA, Region III. The Regional Administrator has redelegated this authority to the Director, Hazardous Site Cleanup Division, EPA Region III ("Complainant"). This Consent Agreement is also proposed and entered into pursuant to the authority vested in the Administrator of EPA by Section 325 of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045, delegated to the Regional Administrator by EPA Delegation No. 22-3-A, and redelegated to Complainant by EPA Region III Delegation No. 22-3-A. Further, this Consent Agreement is proposed and entered into under the authority provided by the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits" ("Consolidated Rules of Practice"), 40 C.F.R. Part 22.

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as “CA/FO”) as prescribed by the Consolidated Rules of Practice pursuant to 40 C.F.R. § 22.13(b), and having consented to the entry of this CA/FO, agree to comply with the terms of this CA/FO.

JURISDICTION

1. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. §§ 22.1(a)(7) and 22.1(a)(8).
2. The Regional Judicial Officer has the authority to approve this settlement and conclude this proceeding pursuant to 40 C.F.R. §§ 22.4(b) and 22.18(b)(3).
3. For the purpose of this proceeding, Respondent, Kemira Water Solutions, Inc. (“Kemira” or “Respondent”) admits the jurisdictional allegations in this Consent Agreement and agrees not to contest EPA’s jurisdiction with respect to the execution or enforcement of this Agreement.

FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW

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

FINDINGS OF FACT

5. Respondent, Kemira Water Solutions, Inc. is a Georgia corporation with its principle place of business located at 1000 Parkwood Circle, Suite 500, in Atlanta, Georgia.
6. At all times relevant to this CA/FO, Respondent has been in charge of the facility located at 3925 Fort Armistead Road in Baltimore, Maryland (“the Facility”), within the meaning of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6. At all times relevant to this CA/FO, Respondent has also been the owner and operator of the Facility, within the meaning of Section 304 of EPCRA, 42 U.S.C. § 11004.
7. The Facility is a “facility” as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), and Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and their respective regulations, 40 C.F.R. § 302.3 and 40 C.F.R. § 355.61.
8. On April 29, 2014, EPA issued an Information Request letter, pursuant to Section 104(e) of CERCLA, in response to a release of chlorine that was reported to have occurred at the Facility on December 16, 2013, in order to determine the Facility’s compliance with Section 103 of CERCLA, 42 U.S.C. § 9603, and Section 304 of EPCRA, 42 U.S.C. §§ 11004.

9. 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) ("Reportable Quantity" or "RQ"). The list of hazardous substances is codified at 40 C.F.R. § 302.4.

10. 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)-(c) of EPCRA, 42 U.S.C. § 11004(a)-(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 (40 C.F.R. Part 355, Appendices A and B).

11. At all times relevant to this CA/FO, the Facility was a facility at which a hazardous chemical was produced, used or stored, as that term is used in Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

12. Beginning on or about December 16, 2013 at or about 7:25 a.m., an estimated 293 pounds of chlorine, Chemical Abstracts Service ("CAS") No. 7782-50-5, were released from the Facility (the "Release") into the atmosphere. The Release continued for approximately 8 minutes and according to the wind direction on December 16, 2013, traveled off site and across the southern property line.

**FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 103 OF CERCLA**

13. The findings of fact contained in paragraphs 5 through 12 of this CA/FO are incorporated by reference herein as though fully set forth at length.

14. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), as implemented by 40 C.F.R. Part 302, requires, in relevant part, a person in charge of a facility to immediately notify the National Response Center ("NRC") established under Section 311(d)(2)(E) of the Clean Water Act, as amended, 33 U.S.C. § 1321(d)(2)(E), as soon as he/she has knowledge of a release (other than a federally permitted release) of a hazardous substance from such facility in a quantity equal to or greater than the RQ.

15. Chlorine is a hazardous substance, as defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and 40 C.F.R. § 302.3, with an RQ of 10 pounds, as listed in 40 C.F.R. § 302.4.

16. The Release 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).

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

18. Respondent knew or should have known of the Release of chlorine from the Facility, in a quantity equal to or exceeding its RQ, at or about 7:25 a.m. on December 16, 2013.

19. Respondent did not notify the NRC of the Release until approximately 12:36 p.m. on December 16, 2013.

20. 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 its applicable RQ, as required by Section 103 of CERCLA, 42 U.S.C. § 9603, and 40 C.F.R. § 302.6.

CONCLUSION OF LAW RELATED TO THE VIOLATION OF SECTION 103 OF CERCLA

21. Respondent’s failure to immediately notify the NRC of the Release is a violation of Section 103 of CERCLA, 42 U.S.C. § 9603, and is therefore subject to the assessment of penalties under Section 109 of CERCLA, 42 U.S.C. § 9609.

FINDINGS OF FACT RELATED TO THE VIOLATION OF SECTION 304(a) AND (b) OF EPCRA – SERC

22. The findings of fact and conclusions of law contained in paragraphs 4 through 21 of this CA/FO are incorporated by reference herein as though fully set forth at length.

23. Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) 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 State Emergency Response Commission (“SERC”) and the Local Emergency Planning Committee (“LEPC”) immediately following a release of a hazardous substance or an EHS in a quantity equal to or exceeding the RQ for the hazardous substance or EHS.

24. Chlorine is 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 10 pounds, as listed in 40 C.F.R. Part 355, Appendices A and B.

25. The Emergency Management Advisory Council has been at all times relevant to this CA/FO, the SERC for the Facility. The Maryland Department of the Environment, located at 1800 Washington Blvd in Baltimore, Maryland, serves as the repository for all notifications, reports, and inventories that must be submitted to the SERC.

26. The Release of chlorine from the Facility constitutes a release of an EHS in a quantity equal to or exceeding its RQ.

27. The Release required immediate notification of the SERC pursuant to Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and 40 C.F.R. Part 355, Subpart C.

28. Respondent did not notify the SERC of the Release until approximately 8:20 a.m. on December 16, 2013.

29. Respondent failed to immediately notify the SERC of the Release of chlorine 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 its RQ, as required by Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and 40 C.F.R. Part 355, Subpart C.

**CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 304(a) AND (b) OF EPCRA – SERC**

30. Respondent's failure to notify the SERC immediately of the Release is a violation of Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**FACTUAL ALLEGATIONS RELATED TO THE VIOLATION
OF SECTION 304(a) AND (b) OF EPCRA – LEPC**

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

32. The Baltimore City LEPC, located at 1201 East Cold Spring Lane in Baltimore, Maryland, has been at all times relevant to this CA/FO, the LEPC for the Facility.

33. The Release required immediate notification to the LEPC pursuant to 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.

34. Respondent did not notify the LEPC of the Release until 8:00 a.m. on December 16, 2013.

35. Respondent failed to immediately notify the LEPC of the Release of chlorine as soon as Respondent knew that a release of a hazardous substance had occurred at the Facility in an

amount equal to or exceeding its RQ, as required by Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and 40 C.F.R. Part 355, Subpart C.

**CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 304(a) AND (b) OF EPCRA – LEPC**

36. Respondent's failure to notify the LEPC immediately of the Release is a violation of Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b). Respondent is, therefore, subject to the assessment of penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b).

**FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 304(c) OF EPCRA – LEPC**

37. The findings of fact and conclusions of law contained in paragraphs 5 through 36 of this CA/FO are incorporated by reference herein as though fully set forth at length.

38. Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), as implemented by 40 C.F.R. Part 355, Subpart C, requires, in relevant part, that when there has been a release of a hazardous substance or an EHS in a quantity equal to or greater than the RQ from a facility at which hazardous chemicals are produced, used, or stored, the owner or operator of that facility must provide a written followup emergency notice regarding the release to the SERC and the LEPC, as soon as practicable.

39. The Release constitutes a release of an EHS in a quantity equal to or exceeding its RQ, requiring immediate notification of the SERC and LEPC pursuant to Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), and 40 C.F.R. Part 355, Subpart C. Consequently, the Release requires submission of written followup emergency notice to the SERC and LEPC pursuant to Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), and 40 C.F.R. Part 355, Subpart C as soon as practicable.

40. Respondent did not provide a written followup emergency notice regarding the Release to the LEPC as soon as practicable after Respondent knew or should have known of the Release, as required by Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), and 40 C.F.R. Part 355, Subpart C.

**CONCLUSION OF LAW RELATED TO THE
VIOLATION OF SECTION 304(c) OF EPCRA – LEPC**

41. Respondent's failure to provide a written followup emergency notice regarding the Release to the LEPC, as soon as practicable, is a violation of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

CIVIL PENALTY

42. In full and final settlement and resolution of all allegations referenced in the foregoing Findings of Fact and Conclusions of Law, and in full satisfaction of all civil penalty claims pursuant thereto, for the purpose of this proceeding, the Respondent consents to the assessment of a civil penalty for the violation of Section 103 of CERCLA, 42 U.S.C. § 9603, set forth above, in the amount of **\$30,231.00** (“CERCLA civil penalty”) and Sections 304(a) and (b), and 304(c) of EPCRA, 42 U.S.C. §§ 11004(a) and (b), 11004(c), set forth above, in the amount of **\$55,305.00** (“EPCRA civil penalty”).

PAYMENT TERMS

43. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with the civil penalties described in this CA/FO, Respondent shall pay the CERCLA civil penalty of \$30,231.00, and the EPCRA civil penalty of \$55,305.00 no later than thirty (30) days after the effective date of the Final Order (the “final due date”) by either cashier’s check, certified check, or electronic wire transfer. Payment of the CERCLA civil penalty and EPCRA civil penalty shall be made in the following manner:

- a. All payments by Respondent shall reference Respondent’s name and address, and the Docket Numbers of this action;
- b. All checks for the CERCLA civil penalty shall be made payable to **EPA-Hazardous Substances Superfund**; all checks for the EPCRA civil penalty shall be made payable to **United States Treasury**;
- c. Payment for the CERCLA civil penalty made by check and sent by regular mail shall be addressed to:

U.S. EPA
ATTN: Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000
Contact: Heather Russell

- d. Payment for the EPCRA civil penalty made by check and sent by regular mail shall be addressed to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Contact: Heather Russell

- e. Payment for the CERCLA civil penalty made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. EPA
ATTENTION: Superfund Payments
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101
Contact: 314-418-1028

- f. Payment for the EPCRA civil penalty made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. EPA
Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: 314-418-1028

- g. Payment 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. M.L. King Drive
Cincinnati, OH 45268-0001

- h. Payment 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

- i. Electronic payment made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

- j. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

- k. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

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

Lydia Guy (3RC00)
Regional Hearing Clerk
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and

Suzanne Parent (3RC42)
Associate Regional Counsel
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

45. The CERCLA civil penalty and EPCRA civil penalty stated herein are based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 109 of CERCLA, 42 U.S.C. § 9609, and the penalty criteria set forth in Section 325 of EPCRA, 42 U.S.C. § 11045, and are consistent with 40 C.F.R. Part 19 and the *Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act, (September 30, 1999)*.

46. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment by the final due date or to comply

with the conditions in this CA/FO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

47. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this CA/FO is mailed or hand-delivered to Respondent. However, EPA will waive interest on any amount of the civil penalty that is paid by the final due date. 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).

48. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of 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 final due date and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid.

49. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

50. Failure by the Respondent to pay the CERCLA civil penalty and the EPCRA civil penalty assessed by the Final Order in full by the final due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

GENERAL PROVISIONS

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

52. The provisions of the CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of the Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

53. This CA/FO resolves only those civil claims which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including the Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public

welfare or the environment. Nothing in this CA/FO shall be construed to limit the United States' authority to pursue criminal sanctions.

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

FOR KEMIRA WATER SOLUTIONS, INC.


Signature

DATE October 20, 2014

Name: Carolina Denton Kelly


Title: SUP, RBV M&I

SBK

In re: Kemira Water Solutions, Inc.

Docket Number CERC-EPC-03-2015-0015

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY



Cecil Rodrigues, Director
Hazardous Site Cleanup Division

OCT 30 2014

DATE

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

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1000 Parkwood Road, Suite 500)
Atlanta, Georgia)
30339,)
Respondent.)
)
Kemira Water Solutions, Inc.) Proceedings Pursuant to Sections 103 and
3925 Fort Armistead Road) 109 of the Comprehensive Environmental
Baltimore, Maryland,) Response, Compensation and Liability
21226,) Act, 42 U.S.C. §§ 9603 and 9609, and
Facility.) Sections 304 and 325 of the Emergency
) Planning and Community Right-to-Know
) Act, 42 U.S.C. §§ 11004 and 11045
)

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of Consent Agreement and Final Order, along with enclosures and/or attachments, for the above-referenced matter, with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that a true and correct copy of the Consent Agreement and Final Order, along with its enclosures and/or attachments, was sent to:

Via Overnight Mail

Susan B. Radcliffe, General Counsel
Kemira Water Solutions, Inc.
1000 Parkwood Circle, Suite 500
Atlanta, Georgia 30339

10/6/2014

Date

Catherine Mc Cool

Catherine Mc Cool (3RC60)
Lead Paralegal Specialist