

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for David Peterson
Name of Case Attorney

10/29/15
Date

in the ORC (RAA) at 918-1115
Office & Mail Code Phone number

Case Docket Number EPCRA-01-2015-0054

Site-specific Superfund (SF) Acct. Number _____

This is an original debt: _____ This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Kt Acquisition LLC
40 Rockdale Street
Worcester, MA 01606

Total Dollar Amount of Receivable \$ 10,584 Due Date: _____

SEP due? Yes _____ No _____ Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

_____ Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND
5 Post Office Square, Suite 100 (OES 04-1)
Boston, MA 02109-3912

OFFICE OF
ENVIRONMENTAL STEWARDSHIP

David Peterson
direct: (617) 918-1891



BY HAND

October 29, 2015

Wanda I. Santiago, Regional Hearing Clerk
EPA Region 1 – New England
5 Post Office Square, Suite 100 (ORA 18-1)
Boston, MA 02109-3912

Re: *In the Matter of KT Acquisition LLC, EPA Docket No. EPCRA-01-2015-0054*
Approved Consent Agreement and Final Order

Dear Ms. Santiago:

Please find enclosed for filing the original and one copy of a Consent Agreement and Final Order (CAFO) resolving the above-referenced enforcement case. Also enclosed is the original and one copy of a certificate of service documenting that, on this date, a copy of the CAFO and this cover letter were mailed to Respondents.

Thank you for your assistance in this matter.

Sincerely,

David Peterson, Senior Enforcement Counsel
U.S. EPA Region 1

Enclosures

cc: Robert Kervick, President, KT Acquisition
Chris Rascher, Inspector, EPA Region 1

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED

OCT 29 2015

EPA ORC
Office of Regional Hearing Clerk

_____)
IN THE MATTER OF)
)
KT ACQUISITION LLC)
)
40 Rockdale Street)
Worcester, MA 01606)
)
Respondent)
)
Proceeding under Section 325(c) of the)
Emergency Planning and Community)
Right-to-Know Act, 42 U.S.C. § 11045(c))
_____)

Docket No: EPCRA-01-2015-0054

**CONSENT AGREEMENT
AND FINAL ORDER**

Complainant, United States Environmental Protection Agency - Region 1 ("EPA"),
having filed a civil administrative Complaint on September 24, 2015, against KT Acquisition,
LLC ("Respondent"), in accordance with the Consolidated Rules of Practice at 40 C.F.R. Part 22;
and

Complainant and Respondent (the "Parties") having agreed that settlement of this matter
is in the public interest, and that entry of this Consent Agreement and Final Order ("CAFO")
without further litigation is the most appropriate means of settling this matter;

NOW THEREFORE, before the taking of any testimony, without any adjudication of
issues of law or fact herein, the Parties agree to comply with the terms of this CAFO.

I. STATUTORY AND REGULATORY AUTHORITY

1. EPA initiated this proceeding for the assessment of a civil penalty pursuant to Section
325(c) of Title III of the Superfund Amendments and Reauthorization Act (also known as the
Emergency Planning and Community Right-to-Know Act or "EPCRA"), 42 U.S.C. § 11045(c),
by filing the above-mentioned Complaint.

2. EPA alleged in its Complaint that Respondent violated Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and its implementing regulations at 40 C.F.R. Part 372, for the failure to submit Toxic Release Inventory (“TRI”) forms, Form A or Form R, for three listed chemicals (nickel, cobalt, and chromium) to the proper authorities by the required deadline.

3. This CAFO shall apply to and be binding upon Respondent and Respondent’s successors and assigns, including, but not limited to, subsequent purchasers. Respondent stipulates that the Complainant has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted. Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in the Complaint, consents to the terms of this CAFO.

4. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and waives its right to appeal the Final Order accompanying this CAFO.

II. TERMS OF SETTLEMENT

5. Respondent certifies that it has corrected the alleged violations cited in EPA’s Complaint and will operate the facility in compliance with Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated thereunder, found at 40 C.F.R. Part 372.

6. Without admitting or denying the facts and violations alleged in this CAFO, Respondent consents to the terms and issuance of this CAFO and agrees to the payment of the civil penalty set forth herein.

7. Pursuant to the relevant factors for penalties issued pursuant to Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), and taking into account any such matters as justice may require, Complainant has determined that it is fair and proper that Respondent pay a total civil

penalty in the amount of ten-thousand five hundred and eighty-four dollars (**\$10,584**) to resolve the violations alleged in this matter.

8. Within thirty (30) days of the effective date of this CAFO, Respondent shall submit a company, bank, cashiers, or certified check in the amount of \$10,584, payable to the order of the "Treasurer, United States of America." The check should be sent to:

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

Or, Respondent may make payment by electronic funds transfer via:

Federal Reserve Bank of New York
ABA = 021030004
Account = 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"

Respondent shall include the case name and docket number (EPCRA-01-2015-0054) on the face of the check or wire transfer confirmation. In addition, at the time of payment, Respondent shall simultaneously send notice of the payment and a copy of the check or electronic wire transfer confirmation to:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
Five Post Office Square
100 (Mail Code: ORA 18-1)
Boston, MA 02109-3912

and

David M. Peterson
Senior Enforcement Counsel
U.S. EPA, Region I
Five Post Office Square
Suite 100 (Mail Code: OES 04-1)
Boston, MA 02109-3912.

9. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In the event that any partial payment of the civil penalty, plus interest thereon is not paid when due without demand, the penalty plus accrued interest shall be payable with additional interest from the original due date to the date of payment, at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees. In addition, a penalty charge of six percent per year, compounded annually, will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment becomes due in accordance with 31 C.F.R. § 901.9(d).

10. The civil penalty under this CAFO and any interest, nonpayment penalties, and other charges described herein shall represent penalties assessed by EPA, and shall not be deductible for purposes of federal, state, or local taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

11. The provisions of this CAFO shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

12. Respondent shall bear its own costs and attorneys' fees in this proceeding and specifically waives any right to recover such costs pursuant to the Equal Access to Justice Act, 5 U.S.C. §504, or other applicable laws.

13. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 325(c) of EPCRA for the violations specifically alleged in EPA's Complaint. Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. This CAFO in no way relieves Respondent or its employees of any criminal liability. Nothing in this CAFO shall be construed to limit the authority of the United States to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public.

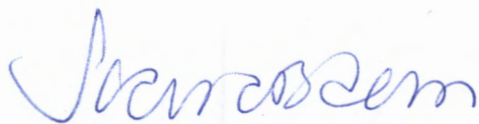
14. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions if Respondent is in violation of this CAFO or continues to be in violation of the statutes and regulations upon which the allegations in EPA's Complaint are based, or for Respondent's violation of any other applicable provision of federal, state, or local law.

15. Each of the undersigned representatives of the parties certifies that he or she is fully authorized by the party responsible to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

16. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon written agreement of all parties, and approval of a Regional Judicial Officer.

17. In accordance with 40 C.F.R. § 22.31(b), the effective date of this CAFO is the date on which this CAFO is filed with the Regional Hearing Clerk.

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY:



Joanna Jerison, Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1

Date: 10/27/15

FOR RESPONDENT KT ACQUISITION LLC:


KT Acquisition LLC

Date: 10-21-15

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

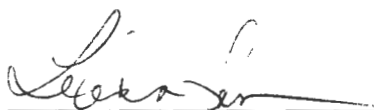
_____)
IN THE MATTER OF)
)
EPA Docket No: EPCRA-01-2015-0054)
KT ACQUISITION LLC)
)
Respondent)
_____)

FINAL ORDER

Pursuant to 40 C.F.R. 22.18(a)-(c) of EPA's Consolidated Rules of Practice, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondents, as specified in the Consent Agreement, are hereby ordered to comply with the terms of the Consent Agreement, effective on the date on which it is filed with the Regional Hearing Clerk.

SO ORDERED THIS 28 DAY OF OCTOBER 2015



LeAnn Jensen
Acting Regional Judicial Officer
U.S. Environmental Protection Agency, Region 1

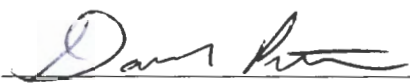
CERTIFICATE OF SERVICE

I hereby certify that this Certificate of Service and the foregoing Consent Agreement and Final Order and cover letter to the Regional Hearing Clerk were delivered in the following manner to the addressees listed below:

Originals and One Copy by Hand Delivery to: Wanda I. Santiago
Regional Hearing Clerk
Environmental Protection Agency
5 Post Office Square, Suite 100 (ORA 18-1)
Boston, MA 02109-3912

One Copy by Certified Mail – Return Receipt Requested to: Robert Kervick, President and CEO
KT Acquisitions LLC
40 Rockdale Street
Worcester, MA 01606

Date: 10/28/2015

Signed: 
David Peterson, Senior Enforcement Counsel
U.S. Environmental Protection Agency
Region 1 (Mail Code: OES 04-1)
5 Post Office Square, Suite 100
Boston, MA 02109-3912
Phone (617) 918-1891
peterson.david@epa.gov