



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 WYNKOOP STREET  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

2015 JUN -2 AM 9:53

FILED  
EPA REGION VIII  
HEARING CLERK

DOCKET NO.: EPCRA-08-2015-0004

IN THE MATTER OF:

**BRODY CHEMICAL**  
6125 West Double Eagle Circle  
Salt Lake City, UT 84118

**RESPONDENT**

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**FINAL ORDER**

Pursuant to 40 C.F.R. §22.13(b) and 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 2nd DAY OF June, 2015.

Elyana R. Sutin  
Regional Judicial Officer

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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IN THE MATTER OF: )  
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**Brody Chemical** )  
**6125 West Double Eagle Circle** )  
**Salt Lake City, UT 84118** )  
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**EXPEDITED SETTLEMENT AGREEMENT**

(COMBINED COMPLAINT AND  
CONSENT AGREEMENT)

**DOCKET NO. : EPCRA-08-2015-0004**

United States Environmental Protection Agency, Region 8 (EPA or Complainant), and Brody Chemical (Respondent), by their undersigned representatives, hereby consent and agree as follows:

**PRELIMINARY STATEMENT**

1. This matter is subject to 40 C.F.R. part 22. This Expedited Settlement Agreement (also known as a Combined Complaint and Consent Agreement, hereafter the Agreement) is entered into by the parties for the purpose of simultaneously commencing and amicably concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).
2. The EPA and Respondent agree that the EPA has jurisdiction over this matter pursuant to section 325 of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045.
3. Respondent agrees that the EPA has jurisdiction and venue over the matters contained in this Agreement, however, Respondent neither admits nor denies the EPA's specific factual allegations contained herein.
4. The EPA and Respondent agree that settlement of this matter is in the public interest, and the EPA and Respondent agree that execution of this Agreement and issuance of a Final Order without further litigation and without adjudication of any issue of fact or law, is the most appropriate means of resolving this matter.
5. This Agreement contains all terms of the settlement agreed to by the parties.

**GENERAL ALLEGATIONS**

6. Brody Chemical (Respondent) is a "person" as defined by section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
7. Respondent is the owner or operator of a "facility", as defined by section 329(4) of EPCRA, 42 U.S.C. § 11049(4), located at 6125 West Double Circle, Salt Lake City, Utah.

8. On July 16, 2014, the EPA inspected Respondent's facility in Salt Lake City, Utah, with Respondent's consent.

9. At all times relevant to this matter, the facility stored hazardous chemicals as defined by 29 C.F.R. § 1910.1200. Calcium chloride, feed mixing salt, special coarse salt, bio degreaser and nitric acid are hazardous chemicals as defined by 29 C.F.R. § 1910.1200(c).

10. At all times relevant to this matter, the facility was required to prepare or have available a Safety Data Sheet (SDS) for each hazardous chemical used and stored at the facility. This requirement is found under the Occupational Safety and Health Act of 1970 and the regulations promulgated under that Act.

11. Respondent is required to file an annual Tier II inventory report for hazardous chemicals stored in excess of established thresholds. Such thresholds are located at 40 C.F.R. § 370.20(b).

12. Under section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations at 40 C.F.R. section 370, Respondent was required to submit its Tier II forms for calendar year 2011 on or before March 1, 2012, for calendar year 2012 on or before March 1, 2013 and for calendar year 2013 on or before March 1, 2014.

### ALLEGED VIOLATIONS

13. Brody Chemical did not file the Tier II form for the hazardous chemicals, calcium chloride, feed mixing salt, special coarse salt and bio degreaser stored on site in an amount equal to or in excess of the threshold level of 10,000 pounds during calendar years 2011, 2012 and 2013, as required by section 312 of EPCRA, 42 U.S.C. § 11022.

14. Brody Chemical did not file the Tier II form for the extremely hazardous substance (EHS), nitric acid, stored on site in an amount equal to or in excess of the threshold level of 500 pounds during calendar years 2012 and 2013, as required by section 312 of EPCRA, 42 U.S.C. § 11022.

15. Brody Chemical did not file an accurate Tier II form for 50% sulfuric acid, as required by section 312 of EPCRA, 42 U.S.C. § 11022. Purchase records from 2011, 2012, and 2013 indicate numerous instances when the quantity of 50% sulfuric acid exceeded the maximum daily amount indicated on the Tier II report.

### TERMS OF SETTLEMENT

16. Respondent agrees to achieve compliance with the requirements that formed the basis of the alleged violations in this matter within 20 days after the Final Order is issued herein.

17. Pursuant to section 325 of EPCRA, 42 U.S.C. § 11045, and based in part on the nature of the alleged violations and other relevant factors, EPA agrees that an appropriate civil penalty to settle this matter is **TWO THOUSAND DOLLARS (\$2,000)**.

18. Respondent consents, for the purpose of settlement, to the issuance of a Final Order and the payment of the civil penalty cited in the foregoing paragraph.

19. Respondent agrees and acknowledges that any and all payments made as a part of this agreement are ineligible for any kind of favorable tax treatment.

20. Respondent must send a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$2,000 to the following address:

US Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979076  
St. Louis, MO 63197-9000

**The following Payment Number for this Agreement must be included on the check:  
ESA-R8-EPCRA-15-002**

20. The signed Agreement and a copy of the check must be sent certified mail to:

Greg Bazley  
EPCRA/RMP Technical Enforcement Program  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street [8ENF-AT]  
Denver, Colorado 80202-1129

21. Respondent waives its right to a hearing on any issue of law or fact set forth in this Agreement and knowingly agrees to waive its right to a hearing on this matter under section 325(b)(B) of EPCRA, 42 U.S.C. § 11045(b)(B), and to appeal this matter under EPCRA § 325(f), 42 U.S.C. § 11045(f).

22. This Agreement shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law.

23. This Agreement, upon incorporation into a Final Order, applies to and is binding upon EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this agreement.

24. Failure by Respondent to comply with any of the terms of this Agreement shall constitute a breach of this Agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

25. Nothing in this Agreement shall be construed as a waiver by the U.S. EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Agreement.

26. Each undersigned representative of the parties to this Agreement certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this Agreement and to execute and legally bind that party to this Agreement.

27. The parties agree to submit this Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.

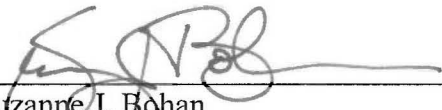
28. This Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the alleged violations set forth in this Agreement.

29. This Agreement resolves Respondent's liability for Federal civil penalties under section 325 of EPCRA, 42 U.S.C. § 11045, for the alleged violations and facts contained in this Agreement. This Agreement shall not in any case affect EPA's right to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

30. Each party shall bear its own costs and attorney's fees in connection with all issues associated with this Agreement.

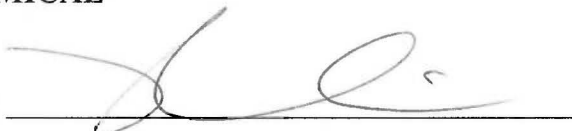
**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8**

Date: 6/2/2015

By:   
Suzanne J. Bohan  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

**BRODY CHEMICAL**

Date: 5/20/15

By:  CEO  
Print: Brady Littland

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER** in the matter **BRODY CHEMICAL.; DOCKET NO.:** **EPCRA-08-2015-0004** was filed with the Regional Hearing Clerk on June 2, 2015.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, Marc Weiner, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on June 2, 2015 to:

Richard Wagner, Technical Advisor  
Brody Chemical  
6125 West Double Eagle Circle  
Salt Lake City, UT 84118

And emailed to:

Kim White  
U. S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. Martin Luther King Drive (MS-0002)  
Cincinnati, Ohio 45268

June 2, 2015



Tina Artemis  
Paralegal/Regional Hearing Clerk

