



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 HAWTHORNE STREET, SAN FRANCISCO, CALIFORNIA 94105
EXPEDITED SPCC SETTLEMENT AGREEMENT**

DOCKET NO.: SPCC-09-2011-0012

On: April 28, 2011

At: Evergreen Oil, Inc.
Newark, CA 94560

Owned & Operated by: Evergreen Holdings, Inc.
(Respondent)

An authorized representative of the United States Environmental Protection Agency ("EPA") conducted an inspection to determine compliance with the Oil Pollution Prevention ("SPCC") regulations promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j), (the "Act"), and found that Respondent had failed to comply with the SPCC regulations as noted on the attached SPCC INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY FORM ("Form"), which is hereby incorporated by reference. By its first signature below, EPA ratifies the Inspection findings and Alleged Violations set forth in the Form.

EPA finds the Respondent is subject to the SPCC regulations and has violated the SPCC regulations as further described in the Form. The Respondent admits to being subject to 40 CFR § 112 and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent does not contest the Inspection Findings, and waives any objections Respondent may have to EPA's jurisdiction.

EPA is authorized to enter into this Expedited Settlement under the authority vested in the Administrator of EPA by Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and by 40 CFR § 22.13(b). The parties enter into this Expedited Settlement in order to settle the civil violations described in the Form for a penalty of \$825.00. The Respondent consents to the assessment of this penalty.

This Expedited Settlement also is subject to the following terms and conditions: Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the violations have been corrected by September 30, 2011 and Respondent has sent a certified check in the amount of \$825.00, payable to the "Treasurer, United States of America" with the notation "Spill Fund - 311" and the Docket Number stated above.

This Expedited Settlement must be returned by certified mail to: OPA Enforcement Coordinator, U.S. Environmental Protection Agency, Region 9 (SFD-9-4), 75 Hawthorne Street, San Francisco, California 94105-3901. The certified check for payment must be sent by certified mail to: U. S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO 63197-9000.

After this Expedited Settlement becomes effective, EPA

will take no further action against the Respondent for the violations of the SPCC regulations described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by the Respondent of the SPCC regulations or of any other federal statute or regulations.

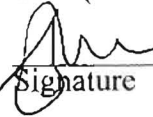
Upon signing and returning this Expedited Settlement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to EPA's approval of the Expedited Settlement without further notice.

This Expedited Settlement is binding on the parties signing below, and is effective immediately on the date filed with the Regional Hearing Clerk. If Respondent does not sign and return this Expedited Settlement as presented within 30 days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the noncompliance identified in the Form.

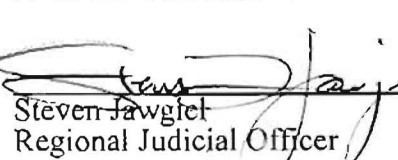
APPROVED BY EPA:

 Date 9-27-11
Jane Diamond, Director
Superfund Division

APPROVED BY RESPONDENT:

Name (Print): WAYNE KISO
Title (Print): HEALTH, SAFETY, & ENVIRONMENTAL MANAGER
 Date 9/8/2011
Signature

IT IS SO ORDERED:

 Date 9/28/11
Steven Jawgiet
Regional Judicial Officer

2011 SEP 29 AM 8:57
REGIONAL HEARING CLERK
FILED

Spill Prevention Control and Countermeasure Inspection Findings, Alleged Violations, and Proposed Penalty Form

(Note: Do not use this form if there is no secondary containment)

These Findings, Alleged Violations and Penalties are issued by EPA Region 9 under the authority vested in the Administrator of EPA by Section 311(b)(6)(B)(I) of the Clean Water Act, as amended by the Oil Pollution Act of 1990.

<p>Company Name: <input style="width: 90%;" type="text" value="Evergreen Holdings, Inc."/></p> <p>Facility Name: <input style="width: 90%;" type="text" value="Evergreen Oil, Inc."/></p> <p>Address: <input style="width: 90%;" type="text" value="6880 Smith Ave."/></p> <p>City: <input style="width: 90%;" type="text" value="Newark"/></p> <p>State: <input style="width: 30%;" type="text" value="CA"/> Zip Code: <input style="width: 60%;" type="text" value="94560"/></p> <p>Contact: <input style="width: 90%;" type="text" value="Mr. Alid Guerrero"/></p>	<p>Docket Number: <input style="width: 90%;" type="text" value="CWA-09-2011-0012"/></p> <p>Date: <input style="width: 90%;" type="text" value="April 28, 2011"/></p> <p>Inspection Number: <input style="width: 90%;" type="text" value="11-4032"/></p> <p>Inspector Name: <input style="width: 90%;" type="text" value="Janice Witul"/></p> <p>EPA Approving Official: <input style="width: 90%;" type="text" value="Jane Diamond"/></p> <p>Enforcement Contact: <input style="width: 90%;" type="text" value="Mark Samolis (415) 947-4273"/></p>
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Summary of Findings (Bulk Storage Facilities)

GENERAL TOPICS: 112.3(a), (d), (e); 112.5(a), (b), (c); 112.7 (a), (b), (c), (d)
(When the SPCC Plan review penalty exceeds \$1,500.00 enter only the maximum allowable of \$1,500.00.)

- | | | |
|-------------------------------------|---|------------|
| <input type="checkbox"/> | No Spill Prevention Control and Countermeasure Plan-112.3 | \$1,000.00 |
| <input type="checkbox"/> | Plan not certified by a professional engineer- 112.3(d) | 450.00 |
| <input type="checkbox"/> | Certification lacks one or more required elements - 112.3(d)(1)..... | 100.00 |
| <input type="checkbox"/> | No management approval of plan- 112.7..... | 450.00 |
| <input type="checkbox"/> | Plan not maintained on site (if manned at least four (4) hrs/day) or not available for review - 112.3(e)(1)..... | 300.00 |
| <input checked="" type="checkbox"/> | No evidence of five-year review of plan by owner/operator- 112.5(b)..... | 75.00 |
| <input checked="" type="checkbox"/> | No plan amendment(s) if the facility has had a change in: design, construction, operation, or maintenance which affects the facility's discharge potential- 112.5(a)..... | 75.00 |
| <input type="checkbox"/> | Amendment(s) not certified by a professional engineer- 112.5(e) | 150.00 |
| <input type="checkbox"/> | Plan does not follow sequence of the rule and/or cross-reference not provided- 112.7 | 150.00 |
| <input type="checkbox"/> | Plan does not discuss additional procedures/methods/equipment not yet fully operational- 112.7 | 75.00 |

- Plan does not discuss alternative environmental protection to SPCC requirements- 112.7(a)(2).....200.00
- Plan has inadequate or no facility diagram- 112.7(a)(3) 75.00
- Inadequate or no listing of type of oil and storage capacity layout of containers- 112.7(a)(3)(i).....50.00
- Inadequate or no discharge prevention measures- 112.7(a)(3)(ii)50.00
- Inadequate or no description of drainage controls- 112.7(a)(3)(iii)50.00
- Inadequate or no description of countermeasures for discharge discovery, response and cleanup- 112.7(a)(3)(iv) ... 50.00
- Recovered materials not disposed of in accordance with legal requirements- 112.7(a)(3)(v)50.00
- No contact list & phone numbers for response & reporting discharges- 112.7(a)(3)(vi).....50.00
- Plan has inadequate or no information and procedures for reporting a discharge- 112.7(a)(4) 100.00
- Plan has inadequate or no description and procedures to use when a discharge may occur- 112.7(a)(5) 150.00
- Inadequate or no prediction of equipment failure which could result in discharges- 112.7(b)150.00
- Plan does not discuss and facility does not implement appropriate containment/diversionary structures/equipment- 112.7(c)400.00

- If claiming impracticability of appropriate containment/diversionary structures:

- Impracticability has not been clearly denoted and demonstrated in plan- 112.7(d).....100.00
- No contingency plan- 112.7(d)(1)..... 150.00
- No written commitment of manpower, equipment, and materials- 112.7(d)(2)..... 150.00
- No periodic integrity and leak testing , if impracticability is claimed - 112.7(d) .150.00
- Plan has no or inadequate discussion of general requirements not already specified-112.7(j) 75.00

QUALIFIED FACILITY REQUIREMENTS: 112.6

- Qualified Facility: No Self certification- 112.6(a).....450.00
- Qualified Facility: Self certification lacks required elements- 112.6(a).....100.00
- Qualified Facility: Technical amendments not certified- 112.6(b) 150.00
- Qualified Facility: Un-allowed deviations from requirements- 112.6(c).....100.00
- Qualified Facility: Environmental Equivalence or Impracticability not certified by PE- 112.6(d).....350.00

WRITTEN PROCEDURES AND INSPECTION RECORDS 112.7(e)

- Plan does not include inspections and test procedures in accordance with 40 CFR Part 112 - 112.7(e)..... 75.00

- Inspections and tests required are not in accordance with written procedures developed for the facility- 112.7(e). 75.00
- No Inspection records were available for review - 112.7(e)200.00

- Written procedures and/or a record of inspections and/or customary business records:

- Are not signed by appropriate supervisor or inspector- 112.7(e) 75.00
- Are not maintained for three years- 112.7(e)..... 75.00

PERSONNEL TRAINING AND DISCHARGE PREVENTION PROCEDURES 112.7(f)

- No training on the operation and maintenance of equipment to prevent discharges and or facility operations - 112.7(f)(1)..... 75.00
- No training on discharge procedure protocols- 112.7(f)(1) 75.00
- No training on the applicable pollution control laws, rules, and regulations and/or SPCC plan- 112.7(f)(1) 75.00
- Training records not maintained for 3 years- 112.7(f)(1) 75.00
- No designated person accountable for spill prevention- 112.7(f)(2)..... 75.00
- Spill prevention briefings are not scheduled and conducted at least annually- 112.7(f)(3) 75.00
- Plan has inadequate or no discussion of personnel and spill prevention procedures-112.7(a)(1) 75.00

SECURITY (excluding Production Facilities) 112.7(g)

- Facility not fully fenced and entrance gates are not locked and/or guarded when plant is unattended or not in production- 112.7(g)(1).150.00
- Master flow and drain valves that permit direct outward flow to the surface are not secured in closed position when in a non-operating or standby status- 112.7(g)(2).300.00
- Starter controls on pumps are not locked in the "off" position or located at a site accessible only to authorized personnel when pumps are not in a non-operating or standby status- 112.7(g)(3). 75.00
- Loading and unloading connection(s) of piping/pipelines are not capped or blank-flanged when not in service or standby status- 112.7(g)(4). 75.00
- Facility lighting not adequate to facilitate the discovery of spills during hours of darkness and to deter vandalism- 112.7(g)(5).150.00
- Plan has inadequate or no discussion of facility security-112.7(a)(1)75.00

FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING 112.7(c) and/or (h-j)

- Inadequate containment for Loading Area (not consistent with 112.7(c)) - 112.7(c).....400.00
- Inadequate secondary containment, and/or rack drainage does not flow to catchment basin,

- treatment system, or quick drainage system- 112.7(h)(1).....750.00
- Containment system does not hold at least the maximum capacity of the largest single compartment of any tank car or tank truck- 112.7(h)(1).....450.00
- There are no interlocked warning lights, or physical barrier system, or warning signs, or vehicle brake interlock system to prevent vehicular departure before complete disconnect from transfer lines- 112.7(h)(2).300.00
- There is no inspection of lowermost drains and all outlets prior to filling and departure of any tank car or tank truck- 112.7(h)(3).....150.00
- Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack-112.7(a)(1).75.00

QUALIFIED OIL OPERATIONAL EQUIPMENT 112.7(k)

- Failure to establish and document procedures for inspections or a monitoring program to detect equipment failure and/or a discharge- 112.7(k)(2)(i)..... 150.00
- Failure to provide an oil spill contingency plan- 112.7(k)(2)(ii)(A)..... 150.00
- No written commitment of manpower, equipment, and materials- 112.7(k)(2)(ii)(B)..... 150.00

FACILITY DRAINAGE 112.8(b) & (c)

- Secondary Containment circumvented due to containment bypass valves left open and/or pumps and ejectors not manually activated to prevent a discharge- 112.8(b)(1)&(2) and 112.8(c)(3)(i).....600.00
- Dike water is not inspected prior to discharge and/or valves not open & resealed under responsible supervision- 112.8(c)(3)(ii)&(iii)..... 450.00
- Adequate records (or NPDES permit records) of drainage from diked areas not maintained- 112.8(c)(3)(iv) 75.00
- Drainage from undiked areas do not flow into catchment basins ponds, or lagoons, or no diversion systems to retain or return a discharge to the facility- 112.8(b)(3)&(4).....450.00
- Two "lift" pumps are not provided for more that one treatment unit- 112.8(b)(5)50.00
- Plan has inadequate or no discussion of facility drainage-112.7(a)(1).....75.00

BULK STORAGE CONTAINERS 112.8(c)

- Plan has inadequate or no risk analysis and/or evaluation of field-constructed aboveground tanks for brittle fracture- 112.7(i).....75.00
- Failure to conduct evaluation of field-constructed aboveground tanks for brittle fracture- 112.7(i).....300.00
- Material and construction of tanks not compatible to the oil stored and the conditions of storage such as pressure and temperature- 112.8(c)(1).. 450.00
- Secondary containment appears to be inadequate- 112.8(c)(2) 750.00
- Containment systems, including walls and floors are not sufficiently impervious to contain oil- 112.8(c)(2)375.00

- Excessive vegetation which affects the integrity150.00
- Walls of containment system slightly eroded or have low areas.....300.00
- Completely buried tanks are not protected from corrosion or are not subjected to regular pressure testing- 112.8(c)(4).....150.00
- Partially buried tanks do not have buried sections protected from corrosion- 112.8(c)(5).....150.00
- Aboveground tanks are not subject to visual inspections- 112.8(c)(6).....450.00
- Aboveground tanks are not subject to periodic integrity testing, such as hydrostatic, nondestructive methods, etc.- 112.8(c)(6).450.00
- Records of inspections (or customary business records) do not include inspections of tank supports/foundation, deterioration, discharges and/or accumulations of oil inside diked areas- 112.8(c)(6).....75.00
- Steam return /exhaust of internal heating coils which discharge into an open water course are not monitored, passed through a settling tank, skimmer, or other separation system- 112.8(c)(7).150.00
- Tank battery installations are not in accordance with good engineering practice because none of the following are present- 112.8(c)(8)450.00
- No testing of liquid level sensing devices to ensure proper operation- 112.8(c)(8)(v)75.00
- Effluent treatment facilities which discharge directly to navigable waters are not observed frequently to detect oil spills- 112.8(c)(9)150.00
- Causes of leaks resulting in accumulations of oil in diked areas are not promptly corrected- 112.8(c)(10) 450.00
- Mobile or portable storage containers are not positioned to prevent discharged oil from reaching navigable water- 112.8(c)(11).....150.00
- Secondary containment inadequate for mobile or portable storage tanks- 112.8(c)(11)..... 500.00
- Plan has inadequate or no discussion of bulk storage tanks-112.7(a)(1) 75.00

FACILITY TRANSFER OPERATIONS, PUMPING, AND FACILITY PROCESS 112.8(d)

-
- Buried piping is not corrosion protected with protective wrapping, coating, or cathodic protection -112.8(d)(1)...150.00
 - Corrective action is not taken on exposed sections of buried piping when deterioration is found- 112.8(d)(1)450.00
 - Not-in-service or standby piping are not capped or blank-flanged and marked as to origin- 112.8(d)(2)75.00
 - Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction- 112.8(d)(3).....75.00
 - Aboveground valves, piping and appurtenances are not inspected regularly- 112.8(d)(4)300.00
 - Periodic integrity and leak testing of buried piping is not conducted- 112.8(d)(4)150.00

- Vehicle traffic is not warned of aboveground piping or other oil transfer operations- 112.8(d)(5). 150.00
- Plan has inadequate or no discussion of facility transfer operations, pumping, and facility process-112.7(a)(1),.....75.00
- Plan does not include a signed copy of the Certification of the Applicability of the Substantial Harm Criteria per 40 CFR Part 112.20(e) 150.00

TOTAL: 825.00


CERTIFICATION OF SERVICE

I certify that the original and the foregoing Expedited SPCC Settlement Agreement in the matter of **Evergreen Oil, Inc. SPCC-09-2011-0012** has been filed with the Region 9 Hearing Clerk and that copies were sent return receipt requested to the following:

Mr. Wayne Kiso
Evergreen Oil, Inc.
6880 Smith Ave.
Newark, CA 94560

Certified Mail No.:
7010 1060 0002 0234 9148

Date: 9/29/11



Bryan Goodwin
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105

FILED

2011 SEP 28 AM 11:25

U.S. EPA REGION IX
REGIONAL HEARING CLEP

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

)	
In the Matter of:)	
)	Docket No. EPCRA-09-2011-0017
Siemens Water Technologies,)	
a Business Unit of Siemens)	
Industry, Inc.,)	
)	CONSENT AGREEMENT AND FINAL
)	ORDER PURSUANT TO 40 C.F.R.
Respondent)	§§ 22.13 AND 22.18
)	

I. CONSENT AGREEMENT

1. The Director of the Communities and Ecosystems Division ("Complainant"), United States Environmental Protection Agency ("EPA") Region 9, and Siemens Water Technologies, a Business Unit of Siemens Industry, Inc. ("Respondent" or "Siemens") agree to settle this matter and consent to the filing of this Consent Agreement and Final Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18 ("CAFO"), which simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).
2. This is a civil administrative proceeding initiated pursuant to Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11001 et seq., also known as the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), for violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated to

- implement Section 313 at 40 C.F.R. Part 372.
3. Complainant has been duly delegated the authority to file this action and sign a consent agreement settling this action. Respondent is headquartered in Warrendale, Pennsylvania.
 4. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA promulgated the Toxic Chemical Release Reporting: Community Right-to-Know Rule at 40 C.F.R. Part 372.
 5. Section 313(a) of EPCRA, as implemented by 40 C.F.R. § 372.30, provides that an owner or operator of a facility that meets the criteria set forth in EPCRA Section 313(b) and 40 C.F.R. § 372.22, is required to submit annually to the Administrator of EPA and to the State in which the facility is located, no later than July 1st of each year, a toxic chemical release inventory reporting form (hereinafter "Form R") for each toxic chemical listed under 40 C.F.R. § 372.65 that was manufactured, processed or otherwise used at the facility during the preceding calendar year in quantities exceeding the thresholds established under EPCRA Section 313(f) and 40 C.F.R. §§ 372.25, 375.27, and 372.28.
 6. Section 313(b) of EPCRA and 40 C.F.R. § 372.22 provide that the requirements of Section 313(a) and 40 C.F.R. § 372.30 apply to an owner and operator of a facility that has 10 or

more full-time employees; that is in a Standard Industrial Classification major group codes 10 (except 1011, 1081, and 1094), 12 (except 1241), 20 through 39; industry codes 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce), or 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. §6921 *et seq.*), or 5169, 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); and that manufactures, processes, or otherwise uses one or more toxic chemicals listed under Section 313(c) of EPCRA and 40 C.F.R. § 372.65 in quantities in excess of the applicable thresholds established under EPCRA Section 313(f) and 40 C.F.R. §§ 372.25, 372.27, and 372.28.

7. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c) and 40 C.F.R. Part 19 authorize EPA to assess a penalty of up to \$32,500 for each violation of Section 313 of EPCRA that occurred on or after March 15, 2004 through January 12, 2009.
8. Respondent is a "person," as that term is defined by Section 329(7) of EPCRA.
9. At all times relevant to this CAFO, Respondent was the owner and operator of a "facility," as that term is defined by Section 329(4) of EPCRA and 40 C.F.R. § 372.3, located at 2523 Mutahar Street, Parker, Arizona ("Facility"); the

Facility had 10 or more "full-time employees," as that term is defined at 40 C.F.R. § 372.3; and the Facility was classified in Standard Industrial Classification Code 4953.

10. During calendar years 2006, Respondent otherwise used the following amounts (in pounds) of styrene, a chemical listed under 40 C.F.R. § 372.65:

<u>Year</u>	<u>styrene otherwise used</u>
2006	12,732

11. The quantities of styrene that Respondent otherwise used at the Facility during calendar year 2006 exceeded the established threshold of 10,000 pounds set forth at 40 C.F.R. § 372.25(a).
12. Respondent failed to submit a Form R for styrene otherwise used at the Facility to the EPA Administrator and to the State of California on or before July 2, 2007 for calendar year 2006 as required by Section 313(a) of EPCRA and 40 C.F.R. § 372.30.
13. Respondent's failure to submit a Form R for styrene otherwise used at the Facility for calendar year 2006 constitutes one violation of Section 313 of EPCRA and 40 C.F.R. § 372.30.
14. The EPA Enforcement Response Policy for EPCRA Section 313 dated August 10, 1992 provides for a penalty of six thousand two hundred dollars (\$6,200) for this violation.
15. In executing this CAFO, Respondent certifies that (1) it has now fully completed and submitted to EPA all of the required

Form Rs in compliance with Section 313 of EPCRA and the regulations promulgated to implement Section 313; and (2) it has complied with all other EPCRA requirements at all facilities under its control.

16. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) admits the violation and facts alleged in this CAFO; (iii) consents to the terms of this CAFO; (iv) waives any right to contest the allegations in this CAFO; and (v) waives the right to appeal the proposed final order contained in this CAFO.
17. The terms of this CAFO constitute a full settlement of the civil administrative matter filed under the docket number above.
18. EPA's final policy statement on Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations, 65 Fed. Reg. 19617 (April 11, 2000) ("Audit Policy") has several important goals, including encouraging greater compliance with the laws and regulations which protect human health and the environment and reducing transaction costs associated with violations of the laws EPA is charged with administering. If certain specified criteria are met, reductions in gravity-based penalties of up to 100%

are available under the Audit Policy. These criteria are (1) discovery of the violation(s) through an environmental audit or due diligence; (2) voluntary disclosure; (3) prompt disclosure; (4) discovery and disclosure independent of government or third party plaintiff; (5) correction and remediation; (6) prevent recurrence; (7) no repeat violations; (8) other violations excluded; and (9) cooperation.


19. Complainant has determined that Respondent has satisfied all of the criteria under the Audit Policy and thus qualifies for the elimination of civil penalties in this matter. Accordingly, the civil penalty assessed in this matter is zero (\$0) dollars.
20. Complainant's finding that Siemens has satisfied the criteria of the Audit Policy is based upon documentation that Siemens has provided to establish that it satisfies these criteria. Complainant and Respondent agree that, should any material fact upon which Complainant relied in making its finding subsequently prove to be other than as represented by Siemens, this CAFO may be voided in whole or in part.
21. Nothing in this CAFO modifies, affects, exempts or relieves Respondent's duty to comply with all applicable provisions of EPCRA and other federal, state or local laws and permits. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves

Respondent's liability for federal civil penalties for the violations and facts specifically alleged in this CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in this CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in this CAFO.

22. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the final order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.
23. The provisions of this CAFO shall be binding upon Respondent, its agents, successors or assigns. Respondent's obligations under this Consent Agreement, if any, shall end when Respondent has performed all of the terms of the Consent Agreement in accordance with the Final Order. Complainant and Respondent consent to the entry of the CAFO without further notice.

FOR COMPLAINANT:

9/22/11
Date


Enrique Manzanilla, Director
Communities and Ecosystems Division
EPA Region 9

FOR RESPONDENT:

SEPTEMBER 14, 2011
Date

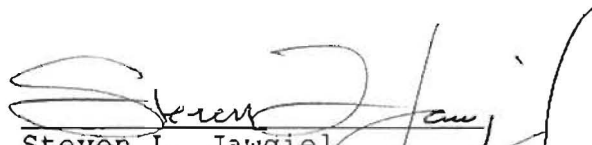

Brent Miller, Executive Vice President
Siemens Industry, Inc.
Water Technologies Business Unit

II. FINAL ORDER

Complainant EPA Region 9 and Respondent Siemens Water Technologies, a Business Unit of Siemens Industry, Inc., having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this Consent Agreement and Final Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18 (Docket No. EPCRA-09-2011-0017) be entered.

09/27/11
Date


Steven L. Jawgiel
Regional Judicial Officer
U.S. Environmental Protection
Agency, Region 9

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order with **Siemens Water Technologies (Docket #: EPCRA-09-2011-0017)** was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

A copy was mailed via CERTIFIED MAIL to:

Mr. Brent Hillier
Executive Vice President
Siemens Industry, Inc.
14950 Heathrow Forest Pkwy, Ste. 250
Houston, TX 77032

CERTIFIED MAIL NUMBER: 7010-1060-0002-0234-7014

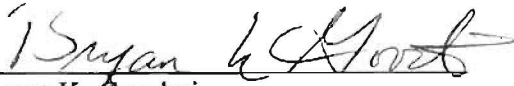
An additional copy was mailed via CERTIFIED MAIL to:

Mr. Stephen M. Richmond
Beveridge & Diamond, PC
15 Walnut Street, Ste 400
Wellesley, MA 02481

CERTIFIED MAIL NUMBER: 7010-1060-0002-0234-7021

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Daniel Reich, Esq.
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105


Bryan K. Goodwin
Regional Hearing Clerk
U.S. EPA, Region IX

09/28/11
Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Certified Mail No. 7010 1060 0002 0234 7014
Return Receipt Requested

SEP 26 2011

Re: EPCRA-09-2011-0017

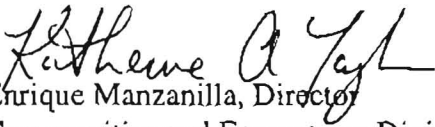
Brent Hillier
Executive Vice President
Siemens Industry, Inc.
14950 Heathrow Forest Parkway, Suite 250
Houston, TX 77032

Dear Mr. Hillier:

Enclosed please find your copy of the fully executed Consent Agreement and Final Order, pursuant to 40 C.F.R. Sections 22.13 and 22.18, which contains the terms of the settlement reached with the EPA Region IX Toxic Chemical Release Inventory Program. Your completion of all actions enumerated in the Consent Agreement and Final Order will close this case.

If you have any questions, please contact Russ Frazer at (415) 947-4220 or have your attorney contact Daniel Reich at (415) 972-3911.

Sincerely,


Enrique Manzanilla, Director
Communities and Ecosystems Division

cc: Stephen M. Richmond, Beveridge & Diamond, PC

Enclosure