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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

IN THE MATTER OF:

Judith Kime
44 Country Manor Lane
Linden, PA 17744

Respondent

.....

Docket No. TSCA-03-2012-0042

RESPONDENTS' ANSWER TO ADMINISTRATIVE COMPLAINT AND NOTICE OF OPPORTUNITY FOR A HEARING ISSUED PURSUANT TO SECTION 16(a) OF THE TOXIC SUBSTANCES CONTROL ACT ("TSCA"), 15 U.S.C. § 2615(a)

AND NOW come the above-captioned Respondent, Judith Kime, by and through J. Michael Wiley, Esquire, of Raup, Wiley & Sholder, her attorneys, to request a hearing in the above-captioned matter and provide the following Answer to the Administrative Complaint:

Respondents specifically deny any and all factually allegations set forth by the United States Environmental Protection Agency ("EPA") in its preamble to the Administrative Complaint and the allegations of violations of the enumerated statutes which constitute legal conclusions to which no response is required and demand strict proof thereof at the hearing in this matter.

I. JURISDICTION

1. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

II. DEFINITIONS AND REGULATORY REQUIREMENTS

2. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

3. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

4. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

5. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

6. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

7. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

8. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

9. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

10. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

11. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

12. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

13. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

14. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

15. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

16. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

17. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

III. ANSWER TO ALLEGED FINDINGS OF FACT AND CONCLUSIONS OF LAW

18. Admitted.

19. It is admitted that Judith Kime owns the two (2) residential buildings identified in this Paragraph with four (4) separate mailing addresses. It is specifically denied that there have been any violations as alleged by EPA and strict proof thereof is demanded. Any other factual averments contained within this Paragraph are specifically denied and strict proof thereof is demanded.

20. The averments of this Paragraph are specifically denied as stated and strict proof thereof is demanded.

21. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required and to the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

22. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required and to the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

23. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required and to the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

24. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required and to the extent that this Paragraph is deemed to contain averments of fact, same are specifically denied and strict proof thereof is demanded.

25. The averments of this Paragraph are specifically denied as stated and strict proof thereof is demanded.

26. The averments of this Paragraph are specifically denied as stated and strict proof thereof is demanded.

27. The averments of this Paragraph are specifically denied as stated and strict proof thereof is demanded.

28. The averments of this Paragraph are specifically denied as stated and strict proof thereof is demanded.

29. The averments of this Paragraph are specifically denied as stated and strict proof thereof is demanded.

30. The averments of this Paragraph constitute a legal conclusion and/or restatement of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of facts, same are specifically denied and strict proof thereof is demanded.

ANSWER TO ALLEGED VIOLATIONS COUNTS 1-3
Alleged Violations of 40 C.F.R. § 745.113(b)(1)

31. Respondent's Answers to the Administrative Complaint contained in Paragraph 1 through 30 are incorporated by reference herein as though fully set forth at length.

32. The averments of this Paragraph contain legal conclusions and/or restatements of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of facts, same are specifically denied and strict proof thereof is demanded.

33. The averments of this Paragraph contain legal conclusions and/or restatements of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of facts, same are specifically denied and strict proof thereof is demanded.

ANSWER TO ALLEGED VIOLATIONS COUNTS 4-6
Alleged Violations of 40 C.F.R. § 745.113(b)(2)

34. Respondent's Answers to the Administrative Complaint contained in Paragraph 1 through 33 are incorporated by reference herein as though fully set forth at length.

35. The averments of this Paragraph contain legal conclusions and/or restatements of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of facts, same are specifically denied and strict proof thereof is demanded.

36. The averments of this Paragraph contain legal conclusions and/or restatements of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of facts, same are specifically denied and strict proof thereof is demanded.

ANSWER TO ALLEGED VIOLATIONS COUNTS 7-9
Alleged Violations of 40 C.F.R. § 745.113(b)(3)

37. Respondent's Answers to the Administrative Complaint contained in Paragraph 1 through 36 are incorporated by reference herein as though fully set forth at length.

38. The averments of this Paragraph contain legal conclusions and/or restatements of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of facts, same are specifically denied and strict proof thereof is demanded.

39. The averments of this Paragraph contain legal conclusions and/or restatements of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of facts, same are specifically denied and strict proof thereof is demanded.

ANSWER TO ALLEGED VIOLATIONS COUNTS 10-12
Alleged Violations of 40 C.F.R. § 745.113(b)(4)

40. Respondent's Answers to the Administrative Complaint contained in Paragraph 1 through 39 are incorporated by reference herein as though fully set forth at length.

41. The averments of this Paragraph contain legal conclusions and/or restatements of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of facts, same are specifically denied and strict proof thereof is demanded.

42. The averments of this Paragraph contain legal conclusions and/or restatements of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of facts, same are specifically denied and strict proof thereof is demanded.

ANSWER TO ALLEGED VIOLATIONS COUNTS 10-12
Alleged Violations of 40 C.F.R. § 745.113(b)(6)

43. Respondent's Answers to the Administrative Complaint contained in Paragraph 1 through 42 are incorporated by reference herein as though fully set forth at length.

44. The averments of this Paragraph contain legal conclusions and/or restatements of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of facts, same are specifically denied and strict proof thereof is demanded.

45. The averments of this Paragraph contain legal conclusions and/or restatements of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of facts, same are specifically denied and strict proof thereof is demanded.

ANSWER TO ALLEGED VIOLATIONS COUNTS 10-12
Alleged Violations of 40 C.F.R. § 745.113(c)(1)

46. Respondent's Answers to the Administrative Complaint contained in Paragraph 1 through 45 are incorporated by reference herein as though fully set forth at length.

47. The averments of this Paragraph contain legal conclusions and/or restatements of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of facts, same are specifically denied and strict proof thereof is demanded.

48. The averments of this Paragraph contain legal conclusions and/or restatements of the law to which no response is required. To the extent that this Paragraph is deemed to contain averments of facts, same are specifically denied and strict proof thereof is demanded.

IV. RESPONSE TO PROPOSED CIVIL PENALTY

The averments of this Paragraph contain legal conclusions and/or restatements of the law to which no response is required. By way of further answer, EPA's proposed penalty and its method of calculation fails to properly take into consideration and balance the very factors it sets forth in its restatement of controlling authority. Therefore, while the allegations set forth in the Administrative Complaint are specifically denied and strict proof thereof has been demanded, it is respectfully submitted that EPA's methodology, circumstance levels, extent levels, and proposed penalty are in error and constitutes an abuse of its discretion under the circumstances and is not appropriate.

V. STATUTORY AND REGULATORY AND AFFIRMATIVE DEFENSES.

49. Respondent's Answers to the Administrative Complaint contained in Paragraph 1 through 48 are incorporated by reference herein as though fully set forth at length.

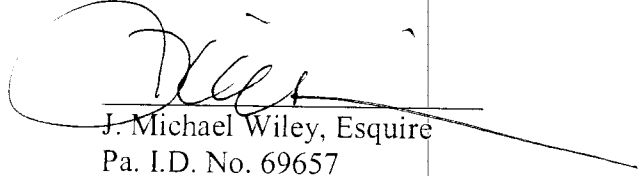
50. Respondent hereby asserts its statutory and regulatory defenses to the alleged violations set forth herein.

VI. REQUEST FOR A HEARING

Respondent hereby requests a hearing in this matter.

Respectfully submitted,

RAUP, WILEY & SHOLDER

A handwritten signature in cursive script, appearing to read "Wiley", is written over a horizontal line. The signature is written in black ink and is positioned above the printed name of the signatory.

J. Michael Wiley, Esquire
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jmwiley@raupwileylaw.com

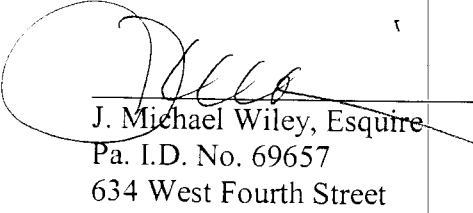
CERTIFICATE OF SERVICE

AND NOW this 10th day of December, 2012, the undersigned hereby certifies that a true and correct copy of RESPONDENTS' ANSWER TO ADMINISTRATIVE COMPLAINT AND NOTICE OF OPPORTUNITY FOR A HEARING ISSUED PURSUANT TO SECTION 16(a) OF THE TOXIC SUBSTANCES CONTROL ACT ("TSCA"), 15 U.S.C. § 2615(a) was served upon:

Louis F. Ramalho
Senior Assistant Regional Counsel
Office of Regional Counsel (3RRC30)
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Respectfully submitted,

RAUP, WILEY & SHOLDER



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