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2 U. S. Environmental Protection Agency
Region IX
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San Francisco, CA 94105
4 (415)972-3911

2013 MAY 15 AM 10: 23

US EPA - REGION IX
HEARING CLERK

5
6 UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
7 75 HAWTHORNE STREET
8 SAN FRANCISCO, CA 94105

9 In the Matter of:)
10 Hydril Company d/b/a) Docket No. EPCRA-09-2013-0007
11 Bakersfield Manufacturing)
Plant,)
12)
13 Respondent.) CONSENT AGREEMENT AND FINAL
ORDER PURSUANT TO 40 C.F.R.
§§ 22.13 and 22.18

14 I. CONSENT AGREEMENT

15 The United States Environmental Protection Agency, Region IX
16 ("EPA"), and Hydril Company, d/b/a Bakersfield Manufacturing
17 Plant ("Respondent") agree to settle this matter and consent to
18 the entry of this Consent Agreement and Final Order ("CAFO"),
19 which simultaneously commences and concludes this matter in
20 accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).

21 A. AUTHORITY AND PARTIES

22 1. This is a civil administrative penalty action instituted
23 against Respondent pursuant to Section 325(c) of Title III of the
24 Superfund Amendments and Reauthorization Act, 42 U.S.C. §§ 11001
25 et seq., also known as the Emergency Planning and Community
26 Right-to-Know Act of 1986 ("EPCRA"), for violation of Section 313
27 of EPCRA, 42 U.S.C. § 11023, and the federal regulations
28 promulgated to implement Section 313 at 40 C.F.R Part 372.

1 2. Complainant is the Director of the Enforcement Division,
2 EPA Region IX, who has been duly delegated the authority to
3 initiate this action and to sign a consent agreement settling
4 this action.

5 3. Respondent is a Delaware corporation with a facility
6 located at 3237 Patton Way in Bakersfield, California.

7 B. APPLICABLE STATUTORY AND REGULATORY SECTIONS

8 4. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§
9 11023 and 11048, EPA promulgated the Toxic Chemical Release
10 Reporting: Community Right-to-Know Rule, which is codified at 40
11 C.F.R. Part 372.

12 5. Section 313(a) of EPCRA, as implemented by 40 C.F.R. §
13 372.30, provides that an owner or operator of a facility that
14 meets the criteria set forth in EPCRA Section 313(b) and 40
15 C.F.R. § 372.22, is required to submit annually to the
16 Administrator of EPA and to the State in which the facility is
17 located, no later than July 1st of each year, a toxic chemical
18 release inventory reporting form (hereinafter "Form R") for each
19 toxic chemical listed under 40 C.F.R. § 372.65 that was
20 manufactured, processed or otherwise used at the facility during
21 the preceding calendar year in quantities exceeding the
22 thresholds established under EPCRA Section 313(f) and 40 C.F.R.
23 §§ 372.25 and 372.28.

24 6. Section 313(b) of EPCRA and 40 C.F.R. § 372.22 provide
25 that the requirements of Section 313(a) and 40 C.F.R. § 372.30
26 apply to an owner and operator of a facility that has 10 or more

1 full-time employees; is in North American Industry Classification
2 System ("NAICS") Code 332996; and manufactures, processes, or
3 otherwise uses one or more toxic chemicals listed under Section
4 313(c) and 40 C.F.R. § 372.65 in quantities that exceed the
5 applicable thresholds established under Section 313(f) and 40
6 C.F.R. §§ 372.25 and 372.28.

7 7. Section 325(c) of EPCRA, as amended by the Civil
8 Monetary Inflation Adjustment Rule at 40 C.F.R. Part 19,
9 authorizes EPA to assess a penalty of up to \$32,500 per day for
10 each violation of Section 313 that occurred after March 15, 2004
11 but on or before January 12, 2009 and a penalty of up to \$37,500
12 per day for each violation of Section 313 that occurred after
13 January 12, 2009 .

14 C. FACTUAL ALLEGATIONS

15 8. Respondent is a corporation and therefore a "person,"
16 as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

17 9. At all times relevant to this matter, Respondent was a
18 tenant and operator of a facility (the "Facility") located at
19 3237 Patton Way in Bakersfield, California that fits within the
20 definition of a "facility," as provided in Section 329(4) of
21 EPCRA, 42 U.S.C. § 11049(4) and 40 C.F.R. § 372.3.

22 10. At all times relevant to this matter, the Facility had
23 10 or more "full-time employees," as that term is defined at 40
24 C.F.R. § 372.3.

25 11. At all times relevant to this matter, the Facility was
26 in NAICS Code 332996.

1 12. During calendar year 2007, Respondent "processed," as
2 that term is defined at 40 C.F.R. § 372.3, approximately 81,780
3 pounds of chromium, approximately 109,041 pounds of manganese,
4 approximately 54,520 pounds of nickel and approximately 5,452
5 pounds of lead.

6 13. The quantities of chromium, manganese, and nickel that
7 Respondent processed at the Facility during calendar year 2007
8 exceed the established threshold of 25,000 pounds set forth at 40
9 C.F.R. § 372.25.

10 14. The quantity of lead that Respondent processed at the
11 Facility during calendar year 2007 exceeds the established
12 threshold of 100 pounds set forth at 40 C.F.R. § 372.28.

13 15. Respondent failed to submit Form Rs for chromium,
14 manganese, nickel, and lead to EPA and the State of California on
15 or before July 1, 2008 for calendar year 2007.

16 16. Respondent's failure to submit timely Form Rs for
17 chromium, manganese, nickel, and lead that Respondent processed
18 at the Facility during calendar year 2007 constitutes four (4)
19 violations of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40
20 C.F.R. Part 372.

21 17. During calendar year 2008, Respondent "processed," as
22 that term is defined at 40 C.F.R. § 372.3, approximately 793,840
23 pounds of chromium, approximately 317,536 pounds of manganese and
24 approximately 49,615 pounds of nickel.

25 18. The quantities of chromium, manganese, and nickel that
26 Respondent processed at the Facility during calendar year 2008

1 exceed the established threshold of 25,000 pounds set forth at 40
2 C.F.R. § 372.25.

3 19. Respondent failed to submit Form Rs for chromium,
4 manganese and nickel to EPA and the State of California on or
5 before July 1, 2009 for calendar year 2008.

6 20. Respondent's failure to submit timely Form Rs for
7 chromium, manganese and nickel that Respondent processed at the
8 Facility during calendar year 2008 constitutes three (3)
9 violations of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40
10 C.F.R. Part 372.

11 21. The EPA Enforcement Response Policy for EPCRA Section
12 313 dated August 10, 1992, as amended by the Civil Monetary
13 Penalty Inflation Adjustment Rule at 40 C.F.R. Part 19, sets
14 forth an unadjusted gravity-based penalty of ONE HUNDRED NINETY-
15 SEVEN THOUSAND, THREE HUNDRED DOLLARS (\$197,300) for these
16 violations.

17 D. RESPONDENT'S ADMISSIONS

18 22. In accordance with 40 C.F.R. § 22.18(b)(2) and for the
19 purpose of this proceeding, Respondent (i) admits that EPA has
20 jurisdiction over the subject matter of this CAFO and over
21 Respondent; (ii) admits the specific factual allegations
22 contained in Section I.C of this CAFO; (iii) consents to any and
23 all conditions specified in this CAFO and to the assessment of a
24 civil administrative penalty under Section I.F of this CAFO, if
25 any; (iv) waives any right to contest the allegations contained
26 in Section I.C of this CAFO; and (v) waives the right to appeal

1 the proposed final order contained in this CAFO.

2 E. RESPONDENT'S CERTIFICATION

3 23. In executing this CAFO, Respondent certifies that
4 (1) it has now fully completed and submitted to EPA all of the
5 required Form Rs in compliance with Section 313 of EPCRA and the
6 regulations promulgated thereunder; and (2) it is currently in
7 compliance with all other EPCRA requirements at all facilities
8 under its control.

9 F. AUDIT POLICY

10 24. EPA's final policy statement on Incentives for Self-
11 Policing: Discovery, Disclosure, Correction and Prevention of
12 Violations, 65 Federal Register 19618 (April 11, 2000) ("the
13 Audit Policy") has several important goals, including encouraging
14 greater compliance with the laws and regulations which protect
15 human health and the environment and reducing transaction costs
16 associated with violations of the laws EPA is charged with
17 administering. If certain specified criteria are met, reductions
18 in gravity-based penalties of up to 100% are available under the
19 Audit Policy. These criteria are: (1) systematic discovery of
20 the violation(s) through an environmental audit or compliance
21 monitoring system; (2) voluntary disclosure; (3) prompt
22 disclosure; (4) discovery and disclosure independent of
23 government or third-party plaintiff; (5) correction and
24 remediation; (6) prevent recurrence; (7) no repeat violations;
25 (8) other violations excluded; and (9) cooperation.

26 25. Complainant has determined that Respondent has

1 satisfied all of the criteria under the Audit Policy and thus
2 qualifies for the elimination of gravity-based penalties in this
3 matter. Accordingly, the civil penalty assessed in this matter
4 is ZERO DOLLARS (\$0).

5 26. Complainant's finding that Respondent has satisfied the
6 criteria of the Audit Policy is based on documentation that
7 Respondent has provided to establish that it satisfies these
8 criteria. Complainant and Respondent agree that, should any
9 material fact upon which Complainant relied in making its finding
10 subsequently prove to be other than as represented by Respondent,
11 this CAFO may be voided in whole or in part.

12 G. RETENTION OF RIGHTS

13 27. In accordance with 40 C.F.R. § 22.18(c), this CAFO only
14 resolves Respondent's liability for federal civil penalties for
15 the violations and facts specifically alleged in Section I.C of
16 this CAFO. Nothing in this CAFO is intended to or shall be
17 construed to resolve (i) any civil liability for violations of
18 any provision of any federal, state, or local law, statute,
19 regulation, rule, ordinance, or permit not specifically alleged
20 in Section I.C of this CAFO; or (ii) any criminal liability. EPA
21 specifically reserves any and all authorities, rights, and
22 remedies available to it (including, but not limited to,
23 injunctive or other equitable relief or criminal sanctions) to
24 address any violation of this CAFO or any violation not
25 specifically alleged in Section I.C of this CAFO.

26 28. This CAFO does not exempt, relieve, modify, or affect

1 in any way Respondent's duty to comply with all applicable
2 federal, state, and local laws, regulations, rules, ordinances,
3 and permits.

4 H. ATTORNEYS' FEES AND COSTS

5 29. Each party shall bear its own attorneys' fees, costs,
6 and disbursements incurred in this proceeding.

7 I. EFFECTIVE DATE

8 30. In accordance with 40 C.F.R. §§ 22.18(b)(3) and
9 22.31(b), this CAFO shall be effective on the date that the final
10 order contained in this CAFO, having been approved and issued by
11 either the Regional Judicial Officer or Regional Administrator,
12 is filed.

13 J. BINDING EFFECT

14 31. The undersigned representative of Complainant and the
15 undersigned representatives of Respondent each certifies that he
16 or she is fully authorized to enter into the terms and conditions
17 of this CAFO and to bind the party he or she represents to this
18 CAFO.

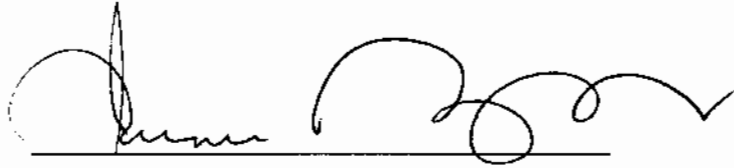
19 32. The provisions of this CAFO shall apply to and be
20 binding upon Respondent and its officers, directors, employees,
21 agents, trustees, servants, authorized representatives,
22 successors, and assigns.

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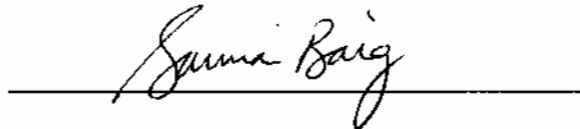
1 FOR RESPONDENT, HYDRIL COMPANY
2 D/B/A BAKERSFIELD MANUFACTURING PLANT

3
4 April 5, 2013
5 DATE



6 Carmen Ortega-Berrios
7 USA Environmental Manager
8 Hydril Company d/b/a Bakersfield
9 Manufacturing Plant

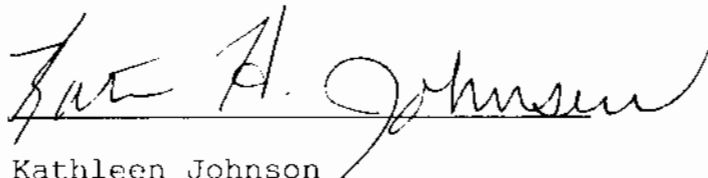
10 April 5, 2013
11 DATE



12 Saima Baig
13 Environmental Coordinator
14 Hydril Company d/b/a Bakersfield
15 Manufacturing Plant

16 FOR COMPLAINANT, EPA REGION IX:

17
18 May 2, 2013
19 DATE



20 Kathleen Johnson
21 Director, Enforcement Division
22 U.S. ENVIRONMENTAL PROTECTION AGENCY,
23 REGION IX

24
25
26 Consent Agreement and Final Order
27 In re: Hydril Company d/b/a
Bakersfield Manufacturing Plant


1
2 II. FINAL ORDER

3 Complainant and Respondent, having entered into the
4 foregoing Consent Agreement,

5 IT IS HEREBY ORDERED that this CAFO (Docket No. EPCRA-09-
6 2013- ~~0007~~) be entered, and that Respondent shall comply with
7 the terms and conditions set forth in the Consent Agreement. This
8 CAFO shall become effective upon filing.
9

10
11 05/08/13

12 DATE

13 
14 STEVEN L. JAWGIEL
Regional Judicial Officer
U.S. Environmental Protection
Agency, Region IX
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26 Consent Agreement and Final Order
27 in re: Hydriil Company d/b/a
Bakersfield Manufacturing Plant

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of Hydril Company (d/b/a Bakersfield Mfg.) (Docket #: EPCRA-09-2013-0007) 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:

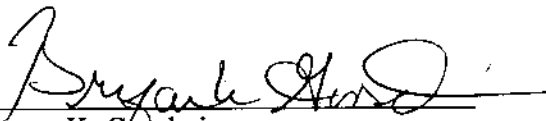
A copy was mailed via CERTIFIED MAIL to:

Tenaris Conroe
PO Box 659
Conroe, TX 77305

CERTIFIED MAIL NUMBER: 7003 3110 0006 1998 2592

A 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

5/15/13
Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

Certified Mail No. 7003 3110 0006 1998 2592
Return Receipt Requested

2013
MAY 02 2012 RE

Re: EPCRA-09-2013-

Carmen Ortega-Berrios
USA Environmental Manager
Saima Baig
Environmental Coordinator
Tenaris Conroe
P O Box 659
Conroe, TX 77305

Dear Ms. Ortega-Berrios & Ms. Baig:

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,

A handwritten signature in cursive script, appearing to read "Kathleen Johnson".

Kathleen Johnson, Director
Enforcement Division

Enclosure