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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

October 6, 2011

**Certified Mail, Return Receipt Requested**

Susan M. Franzetti, Esq.  
Nijman Franzetti, LLP  
10 South LaSalle Street  
Suite 3600  
Chicago, Illinois 60603

RE: Consent Agreement and Final Order, I/M/O Koehler-Bright Star, LLC,  
Docket No. CWA-03-2011-0246

Dear Ms. Franzetti:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CAFO) between the United States Environmental Protection Agency (EPA) and Koehler-Bright Star, LLC (KBS) resolving alleged violations of the Clean Water Act at its Hanover, Pennsylvania facility.

As set forth in the CAFOs, the effective date is thirty (30) days from issuance by EPA. Payment of the \$30,000.00 penalty required under the CAFO must be made no later than thirty (30) days from the effective date. Additionally, the CAFO contains a compliance obligation and requires the submission of a certification to EPA.

We appreciate your cooperation in resolving this matter. Should you have any questions with respect to this matter, please feel free to call me at 215/814-2472.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas Frankenthaler".

Douglas Frankenthaler  
Assistant Regional Counsel

Enclosure

cc: William T. Finnegan, Jr., Esquire (Via Email and US Mail)



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BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

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In the Matter of: :  
: Class II Proceeding Under Section  
: 309(g)(2)(B) of the Clean Water Act,  
Kochler-Bright Star LLC : 33 U.S.C. § 1319(g)(2)(B)  
: :  
: Docket No. CWA-03-2011-0246  
: :  
Respondent : CONSENT AGREEMENT AND  
: FINAL ORDER

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**I. PRELIMINARY STATEMENT AND STATUTORY AUTHORITY**

1. This Consent Agreement and Final Order (“CAFO”) is entered into by the Director, Water Protection Division, United States Environmental Protection Agency (“EPA”), Region III (“Complainant”) and Kochler-Bright Star LLC (“KBS” or “Respondent”) pursuant to Section 309(g) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules”)*, 40 C.F.R. Part 22. The parties having agreed to settlement of violations of the Clean Water Act by Respondent, this CAFO simultaneously commences and concludes this action pursuant to 40 C.F.R. § 22.13(b) and 22.18(b)(2) & (3).
2. The Respondent is an “Industrial User” or “IU” as that term is defined at 40 C.F.R. 403.3(j).
3. Complainant alleges that Respondent has discharged pollutants into a Publicly Owned Treatment Works (“POTW”) operated by the Wyoming Valley Sanitary Authority (“WVSA”), in exceedance of effluent discharge limits contained in Industrial Wastewater Discharge (“IWD”) permit No. 000135-2010, (“KBS Permit”), originally issued to KBS on or about January 1, 2001 and renewed annually thereafter. The KBS Permit was issued by WVSA pursuant to Sections 307 and 402 of the CWA, 33 U.S.C. §§ 1317, 1342.
4. Discharge of effluent in violation of any effluent standard, prohibition or pretreatment standard, including any standard contained in a pretreatment permit issued to an Industrial

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C.F.R. 403.6 (found at 40 C.F.R. Part 461) and local limits promulgated by WVSA pursuant to 40 C.F.R. 403.5(c).

12. From at least September 2005 through at least September 2010 respondent exceeded the categorical pretreatment standards contained in the KBS Permit for lead and copper for at least 52 months, and over 84 monthly average violations and 6 daily maximum violations.
13. During that time period, WVSA issued at least two separate notices of violation ("NOV") to Respondent for violations of lead and copper limits.
14. On or about September 2010, EPA issued an information request to Respondent ("Information Request") pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, to which Respondent timely responded.
15. Responses to the Information Request confirmed Respondent's numerous violations of the KBS Permit.
16. At all times relevant to this action, it was unlawful under Section 301(a) of the CWA, 33 U.S.C. § 1311(a), for any person to discharge a pollutant from a point source to a POTW in violation of its permit issued by the POTW pursuant to Section 307 of the CWA, 33 U.S.C. § 1317.
17. Respondent's violation of the KBS Permit constitute violations of Section 301 of the CWA, 33 U.S.C. § 1311, and subject Respondent to penalties not to exceed \$16,000 per day for each violation, up to a total penalty amount of \$177,500.
18. Concurrently with the execution of this CAFO, Respondent will execute a Settlement Agreement with the WVSA (WVSA Agreement), which will require compliance with the CWA and payment of a civil penalty of \$30,000 to the WVSA, as described below.
19. Respondent acknowledges and understands that the WVSA Agreement and its fulfillment of its obligations thereunder are a significant factor and inducement for the settlement terms contained in this CAFO.

### **III. CONSENT AGREEMENT AND FINAL ORDER**

20. In order to resolve the violations described in Section II above, and to provide a legal framework for the payment of a penalty, EPA and Respondent enter into this ORDER ON CONSENT. Respondent consents to issuance of this CAFO and agrees to undertake all actions required by its terms and conditions. Respondent consents to the assessment of the civil penalty herein and consents to issuance of the compliance order described herein.
21. Respondent neither admits nor denies the factual allegations or conclusions of law contained in Section II, Findings of Fact, Jurisdictional Allegations and Conclusions of Law.

- a. The payment shall reference Respondent's name, address and docket number, be made in U.S. dollars by money order, cashier's or certified check made payable to the "Treasurer, United States of America", wire transfer, or ACH, and delivered as follows:

- i. If by money order, cashier's or certified check sent by U.S. postal service mail:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P. O. Box 979077  
St. Louis, MO 63197-9000  
Contact: 314 418 4087

- ii. If by money order, cashier's or certified check sent by private commercial overnight delivery service:

U.S. EPA  
Fines and Penalties  
U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101  
Contact: 314-418-4807

- iii. If by wire transfer:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Attn: "D 68010727 Environmental Protection Agency"

- iv. If by ACH (also known as REX or remittance express):

PNC Bank  
ABA: 051036706  
Environmental Protection Agency  
Account Number: 310006  
CTX Format  
Transaction Code 22 – checking  
808 17<sup>th</sup> Street, NW  
Washington DC 20074

Mr. Douglas Frankenthaler (3RC20)  
Assistant Regional Counsel  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
Telephone: (215) 814-2472

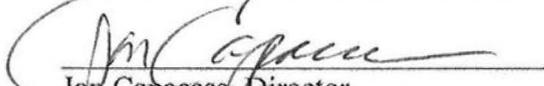
33. All submissions provided pursuant to this Order shall be signed by Respondents and shall include the following certification:

"I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

#### IV. GENERAL PROVISIONS

34. This CAFO shall not relieve Respondents of its obligation to comply with all applicable provisions of federal, state or local law and ordinance, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit. This CAFO does not constitute a waiver, suspension or modification of the requirements of the CWA.
35. Violations of the terms of this ORDER may subject Respondents to an administrative penalty of not more than \$16,000 for each day of violation up to a maximum penalty of \$177,500, and/or civil action in a United States district court with penalties up to \$37,500 per day of violation as authorized in and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19.
36. This Consent Agreement and the accompanying Final Order resolve only the civil claims for the specific violations alleged herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the Clean Water Act, 33 U.S.C. §§ 301 *et seq.*, the regulations promulgated there under, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.
37. Nothing in this CAFO shall be construed as prohibiting, altering or in any way eliminating the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violations of this CAFO or of the statutes and regulations upon which this CAFO is based or for Respondent's violation of any applicable provision of law.

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

  
\_\_\_\_\_  
Jon Capacasa, Director  
Water Protection Division

SO ORDERED in *Kohler-Bright Star, LLC*, Dkt. No. CWA-<sup>03-2011-0246</sup>\_\_\_\_\_, pursuant to 33 U.S.C. §  
1319(g) and 40 C.F.R. Part 22,  
this 6<sup>th</sup> day of October, 2011.

  
\_\_\_\_\_  
Shawn M. Garvin  
Regional Administrator  
U.S. Environmental Protection Agency, Region III

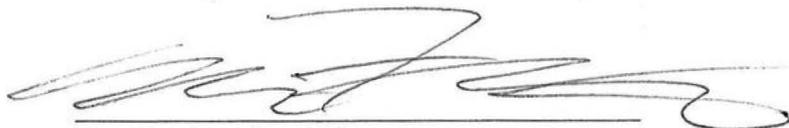
**CERTIFICATE OF SERVICE**

I hereby certify that the original and one copy of the foregoing Consent Agreement and Final Order (CAFO) *I/M/O Koehler-Bright Star, LLC*, CWA-03-2011-0246 have been filed with the EPA Region III Regional Hearing Clerk and that copies of the CAFO were sent via Certified Mail, Return Receipt Requested and electronic mail to:

Susan M. Franzetti, Esq.  
Nijman Franzetti, LLP  
10 South LaSalle Street  
Suite 3600  
Chicago, Illinois 60603  
sf@nijmanfranzetti.com  
Counsel for Respondent

10/6/11

Date



Douglas Frankenthaler  
Assistant Regional Counsel  
U.S. Environmental Protection  
Agency, Region III