

STATE OF CONNECTICUT:
V. :
Memry Corporation :

CONSENT ORDER
No. CO WR IN 17 001
Issuance Date: July 21, 2017

- A. With the agreement of Memry Corporation ("Respondent"), the Commissioner of Energy and Environmental Protection ("the Commissioner") finds:
1. Respondent is a corporation, which is engaged in producing medical equipment at 3 Berkshire Boulevard, Bethel, Connecticut ("the facility").
 2. On October 14, 2015, Respondent submitted to the Department of Energy and Environmental Protection ("the Department"), Bureau of Materials Management and Compliance Assurance, Water Permitting and Enforcement Division ("WPED") a General Permit Registration Form for the *Discharge of Wastewaters from Categorical Industrial Users to the Publicly Owned Treatment Works* ("Categorical GP") for the discharge of metal finishing wastewaters to the Bethel sanitary sewer system, which discharges to the Danbury Publicly Owned Treatment Works ("POTW"). During review of the registration, WPED staff discovered that Respondent has been discharging metal finishing wastewater, since approximately May 2011, without a permit from the Department.
 3. On December 22, 2015, WPED staff conducted an inspection at the facility. During that inspection, it was verified that Respondent had been discharging wastewater from metal finishing operations to the Bethel sanitary sewer system without a permit.
 4. The Department issued Notice of Violation ("NOV") No. WR IN 16 002 to Respondent on January 8, 2016 for discharging wastewater without a permit in violation of Section 22a-430 of the Connecticut General Statutes ("CGS"). The NOV also cited Respondent with failure to register for the *General Permit for the Discharge of Stormwater Associated with Industrial Activity*.
 5. On December 18, 2015, Respondent applied for the *No Exposure Certification for the Discharge of Stormwater Associated with Industrial Activities* ("No Exposure Certification") for the site. The No Exposure Certification was issued to the Respondent on February 15, 2016.

6. On September 6, 2016, the Department issued Categorical GP no. CTCIU0020 to Respondent authorizing the discharge of metal finishing wastewater to the Bethel sanitary sewer system and the Danbury POTW.
 7. By virtue of the above, Respondent has maintained a discharge to the waters of the state without obtaining a permit as required by Section 22a-430 of the CGS.
- B. With the agreement of Respondent, the Commissioner, acting under §22a-6, §22a-424, §22a-427, §22a-430, §22a-432 and §22a-438 of the CGS, orders Respondent as follows:
1. Civil Penalty. On or before thirty (30) days after issuance of this consent order, Respondent shall pay a penalty of forty two thousand, five hundred dollars (\$42,500) as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraph A.7 of this consent order.
 2. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to "Treasurer, State of Connecticut." The check shall state on its face, "***Bureau of Materials Management and Compliance Assurance, Water Permitting and Enforcement Division***, civil penalty, Consent Order No. CO WR IN 17 001. A copy of any check used for payment and any transmittal letter for such a payment shall also be sent to the individual identified in paragraph B.17 of this consent order.
 3. Full compliance. Respondent shall not be considered in full compliance with this consent order until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction.
 4. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
 5. Dates. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as

otherwise specified in this consent order, the word "day" as used in this consent order means calendar day. Any document or action which is required by this consent order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.

6. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this consent order shall be signed by Respondent or, if Respondent is not an individual, by Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and Respondent or Respondent's chief executive officer and each such individual shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

7. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this consent order may subject Respondent to an injunction and penalties.
8. False statements. Any false statement in any information submitted pursuant to this consent order is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
9. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this consent order, Respondent shall notify the Commissioner in writing no later than fifteen (15) days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this consent order or after obtaining a new mailing or location address. Respondent's obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality.
10. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties, nothing in this consent order shall affect the Commissioner's authority to institute any proceeding or take any other action

to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this consent order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.

11. Respondent's obligations under law. Nothing in this consent order shall relieve the Respondent of other obligations under applicable federal, state and local law.
12. No assurance by Commissioner. No provision of this consent order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this consent order will result in compliance.
13. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the facility without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.
14. No effect on rights of other persons. This consent order neither creates nor affects any rights of persons or municipalities that are not parties to this consent order.
15. Notice to Commissioner of changes. Within fifteen (15) days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this consent order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
16. Notification of noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this consent order or of any document required hereunder, Respondent shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be

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approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

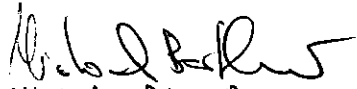
17. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

Nancy Wollenberg, Environmental Analyst 2
Department of Energy and Environmental Protection
Bureau of Materials Management and Compliance Assurance
Water Permitting and Enforcement Division
79 Elm Street
Hartford, Connecticut 06106-5127

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Respondent consents to the issuance of this consent order without further notice. The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order. A corporate resolution granting such authorization is attached hereto as Exhibit A.

RESPONDENT

BY: 
NICOLA DI BARTOLONEO, CEO
Memry Corporation

6/8/2017
Date

Issued as a final order of the Commissioner of Energy and Environmental Protection.


Robert E. Kaliszewski
Deputy Commissioner

7/20/17
Date

ORDER NO. CO WR IN 17 001
TOWN OF BETHEL LAND RECORDS