



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

OCT 07 2014

Massimo Acco, CEO
Fiamm Energy, LLC
One Fiamm Way
Waynesboro, Georgia 30830

RE: Fiamm Energy, LLC
EPA ID Number: GAR 000 021 683
Consent Agreement and Final Order, Docket No. RCRA-04-2014-4013(b)

Dear Mr. Acco:

Enclosed please find a copy of the executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above-referenced matter. Please note that the civil penalty is to be paid in four equal installments, including interest. The first payment is due within thirty (30) days of the effective date of this CA/FO, which is the date of filing by the Regional Hearing Clerk. Subsequent payments are due thereafter in thirty (30) day intervals from the effective date.

If you have any questions, please contact Daryl Himes, at 404-562-8614, or by email at himes.daryl@epa.gov.

Sincerely,

César A. Zapata
Chief, RCRA and OPA Enforcement and
Compliance Branch
RCRA Division

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)
)
Fiamm Energy, LLC)
One Fiamm Way)
Waynesboro, Georgia 30830)
EPA ID No.: GAR 000 021 683)
)
Respondent)
_____)

DOCKET NO.: RCRA-04-2014-4013(b)
Proceeding Under Section 3008(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6928(a)

RECEIVED
EPA REGION IV
2014 OCT -7 AM 8:10
HEARING CLERK

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of the Georgia Hazardous Waste Management Act (GHWMA), Ga. Code Ann. § 12-8-60 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939f], and the regulations promulgated pursuant thereto and set forth in the Georgia Hazardous Waste Management Rules (GHWMR), Ga. Comp. R. and Regs. 391-3-11.01 to 391-3-11.18 [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270]. This action seeks the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] and Ga. Comp. R. and Regs. 391-3-11.01 to 391-3-11.18 [40 C.F.R. Parts 260 through 270].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.
5. Respondent is Fiamm Energy, LLC, a Limited Liability Corporation organized under the laws of Georgia. Respondent is the owner and operator of a dry cell sulfuric acid battery manufacturing facility located at One Fiamm Way, Waynesboro, Georgia (the Facility).

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Georgia (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at Ga. Code Ann. § 12-8-60 *et seq.* and Ga. Comp. R. and Regs. 391-3-11.01 to 391-3-11.18.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. Georgia has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CA/FO.
11. Section 12-8-64(1)(A) of the GHWMA, Ga. Code Ann. § 12-8-64(1)(A) [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. Part 262].
12. Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Ga. Comp. R. and Regs. 391-3-11-.10(2) (permitted) and Ga. Comp. R. and Regs. 391.3-11-.10(1) (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].

13. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.2], a “solid waste” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
14. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.4(b)].
15. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed “hazardous waste” if it is listed Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. Part 261, Subpart D].
16. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D0043.
17. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.
18. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous.
19. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for lead is identified with the EPA Hazardous Waste Number D008.
20. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
21. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], a “facility” includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.”
22. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], a “person” includes a corporation.
23. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], an “owner” is “the person who owns a facility or part of a facility” and an “operator” is “the person responsible for the overall operation of a facility.”
24. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

25. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)], a generator of 1,000 kilograms or greater of hazardous waste in a calendar month is a Large Quantity Generator (LQG) and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Section 12-8-66 of the GHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)-(4)] (hereinafter referred to as the “LQG Permit Exemption”).
26. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(b)], an LQG who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) and 391-3-11-.10(2) [40 C.F.R. Parts 264, 265, and 267] and the permit requirements of Ga. Comp. R. and Regs. 391-3-11-.11 [40 C.F.R. Part 270].
27. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(3)], which is a condition of the LQG Permit Exemption, a generator is required to label or clearly mark each container and tank accumulating hazardous waste on-site with the words: “Hazardous Waste.”
28. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2)], which is a condition of the LQG Permit Exemption, a generator is required to ensure that the date upon which each period of accumulation begins is clearly marked and visible on each container.
29. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.171], and is a condition of the LQG Permit Exemption, if a container holding hazardous waste is not in good condition, or if it begins to leak, the generator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the requirements.
30. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.174], and is a condition of the LQG Permit Exemption, a generator is required to, at least weekly, inspect areas where containers are stored looking for leaking containers and for deterioration of containers caused by corrosion or other factors.
31. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.52(d)], and is a condition of the LQG Permit Exemption, a generator’s contingency plan must include a list of all employees capable of acting as the Facility’s emergency coordinator, and the list must be kept up to date.
32. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.16(d)], and is a condition of the LQG Permit Exemption, a generator must maintain training records that include: the job title, written description, and name of each employee filling the job for each position related to hazardous waste management; and documentation that the training required has been given to and completed by Facility personnel.

33. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)], and is a condition of the LQG Permit Exemption, a generator is required to keep containers of hazardous waste closed when waste is not being added or removed.
34. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Section 12-8-66 of the GHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)], provided that the generator complies with the satellite accumulation area conditions listed in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(i)-(ii)] (hereinafter referred to as the “SAA Permit Exemption”).
35. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(ii)], which is a condition of the SAA Permit Exemption, a generator is required to mark satellite accumulation containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.
36. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(i)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)], and is a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed when waste is not being added or removed.

IV. EPA ALLEGATIONS AND DETERMINATIONS

37. Respondent is a “person” as defined in Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10].
38. Respondent is the “owner” and “operator” of a “facility” located at One Fiamm Way, Waynesboro, Georgia, as those terms are defined in Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10].
39. Respondent is a “generator” of “hazardous waste” as those terms are defined in Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10] and Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.3].
40. Respondent operates a facility which manufactures dry cell lead acid batteries.
41. As of February 8, 2012, Respondent’s most recent Hazardous Waste Generator Notification characterized the Respondent as an LQG of hazardous wastes, including wastes that exhibit the characteristics of corrosivity (D002) and toxicity for lead (D008).
42. On April 9, 2014 the EPA conducted a RCRA compliance evaluation inspection (CEI) at Respondent’s Facility. The findings of the CEI were documented in a Report mailed to Respondent, dated August 1, 2014.

43. During the April 9, 2014, RCRA CEI, the EPA observed that the Respondent had stored hazardous waste acid (D002 and D008) for greater than 90 days.
44. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste in excess of 90 days without a permit or interim status, in violation of Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(b)].
45. During the April 9, 2014, RCRA CEI, the EPA observed that the Respondent was storing hazardous waste (D002 and/or D008) in its 90-Day Storage Area in containers which were not marked with accumulation start dates or labeled with the words "Hazardous Waste."
46. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet some conditions of the LQG Permit Exemption by not complying with the labeling and dating requirements of Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. §§ 262.34(a)(2) and (a)(3)].
47. During the April 9, 2014, RCRA CEI, the EPA observed that the Respondent had accumulated hazardous waste (D008) in containers which were open when hazardous waste was not being added or removed.
48. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)] and of the SAA Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(i)], by failing to comply with the container management requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)].
49. During the April 9, 2014, RCRA CEI, the EPA observed that the Respondent had accumulated hazardous waste (D008) in a container that was torn and contained a visible hole. Respondant had failed to transfer the hazardous waste to a container in good condition.
50. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)], by not complying with the container management requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.171].
51. During the April 9, 2014, RCRA CEI, the EPA observed that the Respondent had failed to keep the list of emergency coordinators in the Facility Contingency Plan up to date because the list included employees who were no longer employed by Respondent.
52. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by not complying

with the contingency plan requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.52(d)].

53. During the April 9, 2014, RCRA CEI, the EPA observed that the Respondent had failed to keep a list of job titles, job descriptions, types of training, and personnel filling positions at the Facility who are involved in the management of hazardous waste.
54. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by not complying with the personnel training requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.16(d)].
55. During the April 9, 2014, RCRA CEI, the EPA observed that the Respondent had failed to inspect weekly all areas of its Facility that were used for the accumulation of hazardous waste.
56. The EPA therefore alleges Respondent violated Section 12-8-66 of the GHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)], by not complying with the inspection requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.174].
57. During the April 9, 2014, RCRA CEI, the EPA observed that the Respondent had accumulated up to 55-gallons of hazardous waste (D008) in satellite accumulation containers which were not marked with the words "Hazardous Waste" or with words that identified the contents of the containers.
58. The EPA therefore alleges Respondent violated [Section 12-8-66 of the GHWMA [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption by not complying with the labeling requirements of Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(ii)].

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

59. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
60. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
61. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.

- 62. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*
- 63. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.
- 64. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
- 65. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
- 66. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
- 67. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.
- 68. Each party will pay its own costs and attorneys' fees.

VI. PAYMENT OF CIVIL PENALTY

- 69. Respondent consents to the payment of a civil penalty in the amount of FORTY-SEVEN THOUSAND TWO HUNDRED DOLLARS (\$47,200.00), plus interest of 1.00% per annum, payable as follows.
 - a. The civil penalty will be paid in FOUR installments to complete payment of the entire civil penalty including interest. Including the civil penalty and interest, the total amount that will be paid upon completion of all payments will be FORTY-SEVEN THOUSAND THREE HUNDRED FIFTY-FIVE DOLLARS AND SEVENTEEN CENTS (\$47,355.17). The first payment is due within thirty (30) days of the effective date of this CA/FO, which is upon its filing with the Regional Hearing Clerk. Respondent's subsequent payments shall thereafter be due in 30 day intervals from said effective date.
 - b. Respondent shall make payments in accordance with the following schedule:

Payment Number	Payment shall be made <i>no later than</i>	Principle Amount	Interest Amount	Total Payment Amount
1	Thirty (30) calendar days following the	U.S. \$11,800.00	U.S. \$0	U.S. \$11,800.00

	effective date of this CA/FO.			
2	Sixty (60) calendar days following the effective date of this CA/FO.	U.S. \$11,800.00	U.S. \$58.19	U.S. \$11,858.19
3	Ninety (90) calendar days following the effective date of this CA/FO.	U.S. \$11,800.00	U.S. \$58.19	U.S. \$11,858.19
4	One hundred twenty (120) calendar days following the effective date of this CA/FO.	U.S. \$11,800.00	U.S. \$38.79	U.S. \$11,838.79

- c. If Respondent fails to make one of the installment payments in accordance with the schedule set forth above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described below in the event of any such failure or default.
- d. Further, if Respondent fails to pay the installment payments in accordance with the schedule set forth above, EPA may refer the debt to a collection agency, a credit reporting agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. In any such collection action, the validity, the amount, and appropriateness of the assessed penalty and of this CA/FO shall not be subject to review.
- e. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth above, Respondent may pay the entire civil penalty of **FORTY-SEVEN THOUSAND TWO HUNDRED DOLLARS (\$47,200)** within thirty (30) calendar days of the effective date of this CA/FO and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a). In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance remaining, together with interest accrued up to the date of such full payment.
70. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1818

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: John Schmid, (202) 874-7026
REX (Remittance Express): 1-866-234-5681

71. Respondent shall submit a copy of the payment to the following individuals:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

And to:

Daryl R. Himes, Environmental Engineer
South Compliance and Enforcement Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

72. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement or, if paying in installments, not paid in accordance with the installment schedule provided above. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:
- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
 - b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
 - c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).
73. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VII. PARTIES BOUND

74. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
75. No change in ownership, partnership, corporate or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.

76. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

VIII. RESERVATION OF RIGHTS

77. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's Facility may present an imminent and substantial endangerment to human health or the environment.
78. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
79. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the storage, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's Facility.

IX. OTHER APPLICABLE LAWS

80. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

X. SERVICE OF DOCUMENTS

81. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in this proceeding:

Marirose J. Pratt
Assistant Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9023

82. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

Massimo Acco
CEO, Fiamm Energy, LLC
One Fiamm Way
Waynesboro, Georgia 30830

XI. SEVERABILITY

83. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

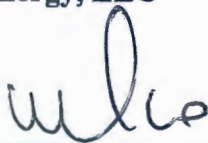
XII. EFFECTIVE DATE

84. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

In the matter of Fiamm Energy LLC, Docket No. RCRA-04-2014-2013(b):

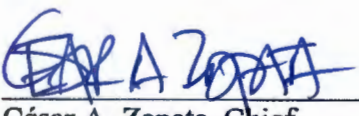
AGREED AND CONSENTED TO:

Fiamm Energy, LLC

By: 
Massimo Acco
CEO

Dated: 9/17/2014

United States Environmental Protection Agency

By: 
César A. Zapata, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2014-2013(b)
)	
Fiamm Energy, LLC)	
One Fiamm Way)	Proceeding Under Section 3008(a) of the
Waynesboro, Georgia 30830)	Resource Conservation and Recovery Act,
EPA ID No.: GAR 000 021 683)	42 U.S.C. § 6928(a)
)	
Respondent)	
_____)	

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 2nd day of October, 2014.

BY: Susan B. Schub
Susan B. Schub
Regional Judicial Officer
EPA Region 4

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Fiamm Energy, LLC, Docket Number: RCRA-04-2014-2013(b), and have served the parties listed below in the manner indicated:

Marirose J. Pratt
Assistant Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

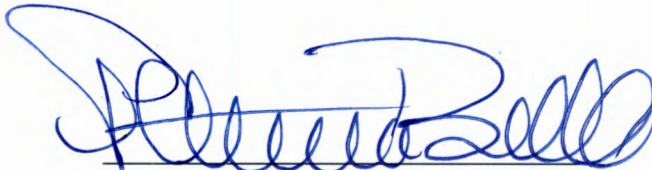
Quantindra Smith
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Massimo Acco, CEO
One Fiamm Way
Waynesboro, Georgia 30830

(Via Certified Receipt)

Date: 10-7-14



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511