



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
SAM NUNN
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA GEORGIA 30303-8960

SEP 01 2010]

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Donna Gooden Payne
University Attorney
Attn: Kristen Bonatz
210 Spilman Building
East Carolina University
Greenville, North Carolina 27858-4353

SUBJ: East Carolina University
EPA ID Number: NCD 075 557 926
Consent Agreement and Final Order
Docket No. RCRA-04-2010-4012(b)

Dear Ms. Gooden Payne:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter that has been filed with the Regional Hearing Clerk and served as required in the Consolidated Rules of Practice, 40 C.F.R. § 22.6. Please make note of the provisions in Section VI of the CAFO, with respect to payment of the assessed penalty. Payment is due within 30 days from the effective date of the CAFO, which is the date the CAFO is filed with the Regional Hearing Clerk.

Should you have any questions, please do not hesitate to call me at (404) 562-9581.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Dilts".

Adam Dilts
Associate Regional Counsel

Enclosure

Internet Address (URL) • <http://www.epa.gov>

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2010-4012(b)
)	
East Carolina University)	
210 East Fourth Street)	PROCEEDING UNDER SECTION
Greenville, North Carolina 27858)	3008(a) OF THE RESOURCE
)	CONSERVATION AND RECOVERY
)	ACT, 42 U.S.C. § 6928(a)
EPA ID NO.: NCD 075 557 926)	
)	
RESPONDENT.)	
_____)	

2010 SEP -1 PM 4: 07
HEATHER OLENA
EPA REGION 4

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, ordering compliance with the requirements of Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 United States Code (U.S.C.) §§ 6921-6939e, and Chapter 130A, Article 9, of North Carolina's General Statutes (N.C. GEN. STAT.). This action is seeking injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of RCRA and the regulations promulgated pursuant thereto at Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 268, 270 and 279; and N.C. GEN. STAT. § 130A-290 to -309, and the North Carolina regulations promulgated pursuant thereto at Title 15A of the North Carolina Administrative Code (N.C. ADMIN. CODE), Chapter 13, Subchapter 13A.
2. 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, 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 (CAFO). 40 C.F.R. §§ 22.13(b), .18(b)(2).
3. The parties 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), the parties have agreed to the execution of this CAFO, and Respondent agrees to comply with the terms of this CAFO.

II. THE PARTIES

4. Complainant is the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency (EPA).
5. Respondent is East Carolina University, a state-supported institution of higher education and constituent member of The University of North Carolina. The facility is located at 210 East Fourth Street, Greenville, North Carolina, 27858.

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), on December 31, 1984, the State of North Carolina received final authorization to carry out a hazardous waste program in lieu of the federal program. The requirements of the authorized state program are found in N.C. GEN. STAT. § 130A-290 to -309, and 15A N.C. ADMIN. CODE 13A.0101-.0119.
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 upon their federal effective date regardless of the State's authorization status, and are implemented by EPA until the State is granted final authorization with respect to those requirements. On January 9, 1995, North Carolina received authorization for its HSWA program.
8. Although EPA has granted North Carolina the authority to enforce its own hazardous waste program, EPA retains jurisdiction and authority to initiate an independent enforcement action, pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), to address violations of the authorized state program. EPA exercises this authority in the manner set forth in the Memorandum of Agreement between EPA and North Carolina.
9. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant gave written notice of this action to North Carolina before the issuance of this CAFO.
10. Section 3002(a) of RCRA, 42 U.S.C. § 6922(a), and N.C. GEN. STAT. § 130A-290 to -309, require the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found in 40 C.F.R. Part 262 and 15A N.C. ADMIN. CODE 13A.0107.
11. Section 3004 of RCRA, 42 U.S.C. § 6924 and N.C. GEN. STAT. § 130A-290 to -309, require the promulgation of standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities. The implementing regulations for these standards are found at 40 C.F.R. Part 264 and 15A N.C. ADMIN. CODE 13A.0109.
12. Section 3005 of RCRA, 42 U.S.C. § 6925, and N.C. GEN. STAT. § 130A-290 to -309, set 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 40 C.F.R. Parts 264, 265, and 270, and 15A N.C. ADMIN. CODE 13A.0109, .0110, and .0113.

13. Pursuant to 40 C.F.R. § 261.2 and 15A N.C. ADMIN. CODE 13A.0106(a), a “solid waste” is any discarded material that is not otherwise excluded by regulation.
14. Pursuant to 40 C.F.R. § 261.3 and 15A N.C. ADMIN. CODE 13A.0106(a), a solid waste is a “hazardous waste” if it is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b), and it meets any of the criteria specified in 40 C.F.R. § 261.3(2).
15. Pursuant to 40 C.F.R. § 260.10 and 15A N.C. ADMIN. CODE 13A.0102, a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in 40 C.F.R. Part 261 or whose act first causes a hazardous waste to become subject to regulation.
16. Pursuant to 40 C.F.R. § 260.10 and 15A N.C. ADMIN. CODE 13A.0102, a “small quantity generator” is defined as a generator who generates less than 1,000 kilograms of hazardous waste in a calendar month.
17. Pursuant to 40 C.F.R. § 260.10 and 15A N.C. ADMIN. CODE 13A.0102, a “container” is defined as any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
18. Pursuant to 40 C.F.R. § 262.11 and 15A N.C. ADMIN. CODE 13A.0107(a), a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste.
19. Pursuant to 40 C.F.R. § 262.20(a)(1) and 15A N.C. ADMIN. CODE 13A.0107(b), a generator who transports, or offers for transport, a hazardous waste for offsite treatment, storage, or disposal, must prepare a Manifest according to the instructions included in the appendix to those parts, including the identification of all applicable waste codes.
20. Pursuant to 40 C.F.R. § 262.34(c)(1)(i) and 15A N.C. ADMIN. CODE 13A.0107(c), a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near any point of generation where wastes initially accumulate (a satellite accumulation area), without a permit or interim status (permit exemption), provided that he comply with 40 C.F.R. § 265.173(a) (requiring the container holding the hazardous waste to be closed except when necessary to add or remove waste).
21. Pursuant to 40 C.F.R. § 262.34(c)(1)(ii) and 15A N.C. ADMIN. CODE 13A.0107(c), a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near any point of generation where wastes initially accumulate, without a permit or interim status (permit exemption), provided that he marks his containers with the words “Hazardous Waste” or other words that identify the contents of the containers.

22. Pursuant to 40 C.F.R. § 262.34(d) and 15A N.C. ADMIN. CODE 13A.0107(c), a generator who generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less, without a permit or interim status (permit exemption), provided that the generator complies with the management requirements listed in 40 C.F.R. § 262.34(d)(1)-(5).
23. Pursuant to 40 C.F.R. § 262.34(d)(4) and 15A N.C. ADMIN. CODE 13A.0107(c), which incorporates 40 C.F.R. § 262.34(a)(2), a generator who generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or interim status, provided that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.
24. Pursuant to 40 C.F.R. § 262.34(d)(4) and 15A N.C. ADMIN. CODE 13A.0107(c), which incorporates 40 C.F.R. § 262.34(a)(3), a small quantity generator may accumulate hazardous waste on-site for 180 days or less without a permit or interim status, provided that while being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste."
25. Pursuant to 40 C.F.R. § 273.9 and 15A N.C. ADMIN. CODE 13A.0119(b), a "universal waste" is defined as, *inter alia*, any mercury-containing equipment as described in 40 C.F.R. § 273.4.
26. Pursuant to 40 C.F.R. § 273.9 and 15A N.C. ADMIN. CODE 13A.0119(b), "mercury-containing equipment" is defined as any device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.
27. Pursuant to 40 C.F.R. § 273.4 and 15A N.C. ADMIN. CODE 13A.0119(b), standards for universal waste management are applicable to mercury containing equipment unless such equipment is excluded pursuant to 40 C.F.R. § 273.4(b).
28. Pursuant to 40 C.F.R. § 273.9 and 15A N.C. ADMIN. CODE 13A.0119(b), a generator of universal waste is defined as a "universal waste handler."
29. Pursuant to 40 C.F.R. § 273.9 and 15A N.C. ADMIN. CODE 13A.0119(b), a universal waste handler who does not accumulate 5,000 kilograms or more of universal waste at any time is a "small quantity generator of universal waste."
30. Pursuant to 40 C.F.R. § 273.14(d)(1) and 15A N.C. ADMIN. CODE 13A.0119(b), a small quantity handler of universal waste mercury-containing equipment must label or mark the container storing mercury-containing equipment with any one of the following phrases: "Universal Waste–Mercury Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

31. Pursuant to 40 C.F.R. § 273.15(c) and 15A N.C. ADMIN. CODE 13A.0119(b), a small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

IV. EPA ALLEGATIONS AND DETERMINATIONS

32. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15) and 15A N.C. ADMIN. CODE 13A.0102.
33. Respondent is the "owner" and "operator" of a "facility," as those terms are defined in 40 C.F.R. § 260.10 and 15A N.C. ADMIN. CODE 13A.0102.
34. Respondent has been assigned EPA ID number NCD 075 557 926 by the North Carolina Department of Environment and Natural Resources (NCDENR).
35. Respondent generates waste that is a "solid waste" as defined in 40 C.F.R. § 261.2 and 15A N.C. ADMIN. CODE 13A.0106(a).
36. Respondent generates "hazardous waste" as defined in 40 C.F.R. § 261.3 and 15A N.C. ADMIN. CODE 13A.0106(a), at the facility's art studios, science laboratories (Howell Science Complex and Science and Technology Building), and maintenance areas (Automotive Services Department and Paint Shop).
37. The facility has provided notice that it is a "small quantity generator of hazardous waste" as defined in 40 C.F.R. § 260.10 and 15A N.C. ADMIN. CODE 13A.0102, that generates greater than 100 kilograms hazardous waste in a calendar month.
38. On June 3, 2009, EPA and NCDENR conducted a RCRA Compliance Evaluation Inspection (CEI) of Respondent's facility.
39. At the time of the June 3, 2009, CEI, Respondent failed to determine if spent solvent contaminated rags were listed hazardous waste pursuant to Subpart D of 40 C.F.R. Part 261 and 15A N.C. ADMIN. CODE 13A.0106(d). These waste rags, used in the Automotive Services Department, contained spent solvents that would be F-listed (F002 and F005), in addition to having a characteristic of ignitability (D001).
40. EPA therefore alleges that Respondent has violated 40 C.F.R. § 262.11 and 15A N.C. ADMIN. CODE 13A.0107(a).
41. On June 29, 2009, Respondent failed to list all applicable waste codes for waste stream "RQ Waste Flammable Solids," on Manifest #912274, Line #1. As described in paragraph 39 herein, this waste stream consisted of spent solvent rags from the facility's Automotive Services Department and the manifest should have listed waste codes F002 and F005, in addition to D001.

42. EPA therefore alleges that Respondent has violated 40 C.F.R. § 262.20(a)(1) and 15A N.C. ADMIN. CODE 13A.0107(b).
43. At the time of the June 3, 2009, CEI, Respondent failed to keep containers of hazardous waste, which were being managed in satellite accumulation areas, closed. These containers included: one two-liter container of ignitable hazardous waste and two two-liter containers of waste solvent located in the Science and Technology Building; and one 55-gallon of waste paint located in the Paint Shop.
44. At the time of the June 3, 2009, CEI, Respondent failed to label the following containers, which were managed in satellite accumulation areas, with the words "Hazardous Waste" or other words that identify the contents of the containers. These containers included: a single one-gallon container of waste alcohol, a single one-liter container of waste acetone, three vials of Alizarin Blue and Alizarin Red, and one container of Alizarin Blue, which were located in the Howell Science Complex; and several containers of spent solvent contaminated rags, which were located in the Automotive Services Department.
45. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and N.C. GEN. STAT. § 130A-294, by storing hazardous waste without a permit or interim status because Respondent failed to meet the 40 C.F.R. § 262.34(c)(1)(i), (ii) conditions of the 40 C.F.R. § 262.34(c) and 15A N.C. ADMIN. CODE 13A.0107(c) permit exemptions.
46. At the time of the June 3, 2009, CEI, Respondent failed to mark the following hazardous wastes located in the less than 180-day Hazardous Waste Storage Area, with an accumulation start date: two waste flares; several containers of waste mercury; a container of waste sodium cyanide; and a container of waste tetramethyl bromide.
47. At the time of the June 3, 2009, CEI, Respondent failed to label the following containers of hazardous wastes located in the less than 180-day storage area, with the words "Hazardous Waste": one 55-gallon container of waste gasoline; two 55-gallon containers of solvent contaminated rags; two waste flares; several containers of waste mercury; one container of waste sodium cyanide; and one container of waste tetramethyl bromide.
48. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and N.C. GEN. STAT. § 130A-294, by storing hazardous waste without a permit or interim status, because Respondent failed to comply with the requirements of 40 C.F.R. § 262.34(d)(4), which incorporates the 40 C.F.R. § 262.34(a)(2) and (3) container labeling requirements as requisite conditions of the 40 C.F.R. § 262.34(d) and 15A N.C. ADMIN. CODE 13A.0107(c) permit exemptions.
49. At the time of the June 3, 2009, CEI, Respondent failed to label waste mercury-containing equipment, stored in the less than 180-day Hazardous Waste Storage Area, with the words "Universal Waste—Mercury Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

50. EPA therefore alleges that Respondent has violated 40 C.F.R. § 273.14(d)(1) and 15A N.C. ADMIN. CODE 13A.0119(b).
51. At the time of the June 3, 2009, CEI, Respondent failed to mark or label universal waste mercury containing equipment, stored in the less than 180-day Hazardous Waste Storage Area, with the date it became a waste or was received.
52. EPA therefore alleges that Respondent has violated 40 C.F.R. § 273.15(c) and 15A N.C. ADMIN. CODE 13A.0119(b).

V. TERMS OF AGREEMENT

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

53. Within thirty (30) calendar days of receipt of the executed copy of this CAFO, Respondent shall submit to EPA and to NCDENR a certification signed by a duly authorized representative stating that the Facility is in compliance with RCRA and that all the violations alleged in this CAFO have been corrected.

This certification shall be as follows:

“I certify under penalty of law, to the best of my knowledge and belief that all violations alleged in this CAFO have been corrected. All work was done under my direction or supervision according to a system designed to assure that qualified personnel implemented and completed the required tasks. This certification is based on my inquiry of the person(s) who performed the tasks, or those persons directly responsible for the person(s) who performed the tasks. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

54. The certifications required to be submitted under this CAFO shall be mailed to:

Nancy McKee, Acting Chief
North Section, RCRA and OPA Enforcement and Compliance Branch
RCRA Division
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

and to:

Elizabeth Cannon, Chief
Hazardous Waste Section
Division of Waste Management
North Carolina Department of Environment and Natural Resources

1646 Mail Service Center
401 Oberlin Road, Suite 150
Raleigh, North Carolina 27699

55. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
56. Respondent neither admits nor denies the factual allegations and determinations set out in this CAFO.
57. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
58. Respondent waives its right to challenge the validity of this CAFO and the settlement of the matters addressed in this CAFO based on any issue related to the Paperwork Reduction Act.
59. Respondent waives any right 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 CAFO.
60. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of RCRA. The parties agree that compliance with the terms of this CAFO shall resolve all of Respondent's liability for civil penalties for the violations and facts alleged and stipulated to in this CAFO.
61. Each party will pay its own costs and attorney's fees.

VI. PAYMENT OF CIVIL PENALTY

62. Respondent consents to the payment of a civil penalty in the amount of TWENTY THOUSAND FIVE HUNDRED AND FIFTY DOLLARS (\$20,550.00) within thirty (30) calendar days of the effective date of this CAFO.
63. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearinghouse (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 the Respondent sends payment by the United States 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

If the Respondent sends payment by non-United States Postal express mail delivery, the payment shall be sent to:

United States Bank
Government Lockbox 979077
United States Environmental Protection Agency
Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101

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

PNC Bank
ABA: 051036706
Account Number: 310006
CTX Format Transaction Code 22 – checking
United States Environmental Protection Agency
808 17th Street, N.W.
Washington, D.C. 20074
Contact: Jesse White, (301) 887-6548

64. Respondent shall submit a copy of the payment to the following addressees:

Regional Hearing Clerk
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

and to:

Nancy McKee, Acting Chief
North Section, RCRA and OPA Enforcement and Compliance Branch
RCRA Division
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

65. If Respondent fails to remit the civil penalty as agreed to herein, 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. 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 31 C.F.R. § 901.9.
- 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).

66. Penalties paid pursuant to this CAFO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VII. PARTIES BOUND

67. This CAFO 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 CAFO.

68. 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 CAFO.

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

VIII. RESERVATION OF RIGHTS

70. Notwithstanding any other provision of this CAFO, 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.

71. 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 CAFO.

72. Except as expressly provided herein, nothing in this CAFO 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 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.

73. This CAFO may be amended or modified only by written agreement executed by both the EPA and Respondent.

IX. OTHER APPLICABLE LAWS

74. All actions required to be taken pursuant to this CAFO 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

75. 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 the proceeding:

Adam Dilts
Associate Regional Counsel
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9581

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

Donna Gooden Payne
University Attorney
Attn: Kristen Bonatz
210 Spilman Building
East Carolina University
Greenville, North Carolina 27858-4353
(252) 328-6940

XI. SEVERABILITY

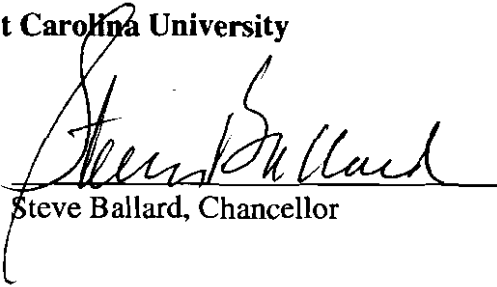
77. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions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

XII. EFFECTIVE DATE

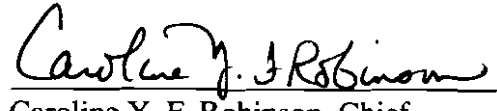
78. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

East Carolina University

By:  Dated: 8/20/10
Steve Ballard, Chancellor

U. S. Environmental Protection Agency

By:  Dated: 8/24/10
Caroline Y. F. Robinson, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2010-4012(b)
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East Carolina University)	
210 East Fourth Street)	PROCEEDING UNDER SECTION
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)	CONSERVATION AND RECOVERY
)	ACT, 42 U.S.C. § 6928(a)
EPA ID NO.: NCD 075 557 926)	
)	
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. 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 1st day of Sept., 2010.

BY: Susan B. Schub
Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CAFO), in the Matter of East Carolina University, Docket Number: RCRA-04-2010-4012(b), on the parties listed below in the manner indicated:

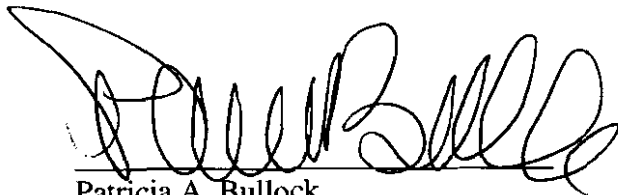
Adam Dilts, (Via EPA's internal mail)
OEA – 13th Floor
U.S. EPA – Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8690

Nancy McKee, (Via EPA's internal mail)
RCRA Division – 10th Floor
U.S. EPA – Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8690

Donna Gooden Payne, (Via Certified Mail- Return Receipt Requested)
University Attorney
Attn: Kristen Bonatz
210 Spilman Building
East Carolina University
Greenville, North Carolina 27858-4353

Date

9-1-10



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