



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

SC-6J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Scott Maris, Vice President  
Wayne Disposal, Inc.  
49350 North I-94 Service Drive  
Belleville, MI 48111

Re: Wayne Disposal, Inc., Belleville, Michigan, Consent Agreement and Final Order  
Docket No. CERCLA-05-2008-0005

Dear Mr. Maris:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the other original CAFO with the Regional Hearing Clerk on March 27, 2008.

Please pay the civil penalty in the amount of \$18,648.00 in the manner prescribed in paragraph 29, and reference you check with the billing document number 2750830B006 and the docket number CERCLA-05-2008-0005.

Your payments are due on April 25, 2008 (within 30 days of filing date).

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Stuart Hersh, Associate Regional Counsel, at (312) 886-6235. Thank you for your assistance in resolving this matter.

Sincerely yours,

Mark J. Horwitz, Chief  
Chemical Emergency Preparedness  
and Prevention Section

Enclosure

cc: Regional Hearing Clerk  
U.S. EPA Region 5

Stuart Hersh (w/ enclosure)

Captain Eddie Washington, Chairperson (w/ enclosure)  
Susan Parker (w/ enclosure)  
MI SERC

Marcy Toney (w/ enclosure)  
Regional Judicial Officer

Jeffrey L. Woolstrum, Attorney (w/ enclosure)  
Honigman Miller Schwartz and Cohn L.L.P.  
2290 First National Building  
660 Woodward Avenue  
Detroit, MI 48226-3506 (certified)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF:

Wayne Disposal, Inc.  
Belleville, Michigan

) Docket No. CERCLA-05-2008-0005  
)  
) Proceeding to Assess a Civil Penalty under  
) Section 109(b) of the Comprehensive  
) Environmental Response, Compensation,  
) and Liability Act.  
)

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US EPA REGION V  
2008 MAR 27 AM 10:39

Consent Agreement and Final Order  
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 109(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609(b), and Sections 22.13(b) and 22.18(b)(2) and (3) of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits” (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Chief, Chemical Emergency Preparedness and Prevention Section, Emergency Response Branch 2, Superfund Division, Region 5, United States Environmental Protection Agency (EPA).

3. Respondent is Wayne Disposal, Inc., a corporation, doing business in the State of Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO), 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of facts or law is in their interest and in the public interest.

6. Respondent consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

**Jurisdiction and Waiver of Right to Hearing**

7. Wayne Disposal, Inc. admits the jurisdictional allegations in this CAFO and neither admits or denies the factual allegations in this CAFO.

8. Wayne Disposal, Inc. waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

**Statutory and Regulatory Background**

9. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center (NRC) as soon as that person has knowledge of any release of a hazardous substance from the facility in an amount equal to or greater than the hazardous substance's reportable quantity.

10. Under Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), the EPA Administrator may assess a civil penalty of up to \$25,000 per day of violation of CERCLA Section 103. The Debt Collections Improvements Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19 increased these statutory maximum penalties to \$27,500 per day of violation that occurred from January 31, 1997 through March 15, 2004, and to \$32,500 per day for violations that occurred after March 15, 2004.

**Factual Allegations and Violations**

11. Respondent is a "person" as that term is defined under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

12. At all times relevant to this CAFO, Respondent was an owner or operator of the Facility located at 49350 North I-94 Service Drive, Belleville, Michigan (Facility).

13. At all times relevant to this CAFO, Respondent was in charge of the Facility.
14. Respondent's Facility consists of a building, structure, installation, equipment, landfill, storage container, motor vehicle, or any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located.
15. Respondent's Facility is a "facility" as that term is defined under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
16. Multi-source leachate (RCRA Hazardous Waste Code F039) is a "hazardous substance" as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
17. Multi-source leachate (RCRA Hazardous Waste Code F039) has a reportable quantity of one pound, as indicated at 40 C.F.R. Part 302, Table 302.4.
18. On July 21, 2006, at or about 12:15 p.m., a release occurred from Respondent's Facility of approximately 30 gallons of multi-source leachate (RCRA Hazardous Waste Code F039) (the Release).
19. The 30 gallons of multi-source leachate would equal about 250 pounds.
20. In a 24 hour time period, the Release of multi-source leachate exceeded the one pound reportable quantity.
21. During the Release, approximately 250 pounds spilled, poured, discharged, or dumped into the land surface.
22. The Release is a "release" as that term is defined under Section 101(22) of CERCLA 42 U.S.C. § 9601(22).
23. Respondent had knowledge of the Release on July 21, 2006, at approximately 12:15 p.m.

24. The Release was one for which notice was required under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a)

25. Respondent notified the NRC of the Release on July 24, 2006, at 9:00 a.m.

26. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the Release.

27. Respondent's failure to notify immediately the NRC of the Release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

#### Civil Penalty

28. In consideration of Respondents cooperation, return to compliance, willingness to quickly resolve this matter and other matters as justice may require, EPA has determined that an appropriate civil penalty to settle this action is \$18,648.

29. Within 30 days after the effective date of this CAFO, Respondent must pay an \$18,648 civil penalty for the CERCLA violation. Respondent must pay the penalty by sending a cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

U.S. Environmental Protection Agency  
Superfund Payments  
Cincinnati Finance Center  
P.O. Box 979076  
St. Louis, MO 63197-9000

The check must note the case title of this matter: In the Matter of Wayne Disposal, Inc., the docket number of the CAFO and the billing document number 2750830B006.

30. A transmittal letter, stating the case title, Respondent's complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk, (E-13J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3511

James Entzminger, (SC-6J)  
Chemical Emergency Preparedness  
and Prevention Section  
77 West Jackson Boulevard  
Chicago, IL 60504-3511

Stuart Hersh, (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3511

31. This civil penalty is not deductible for federal tax purposes.
32. If Respondent does not timely pay the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.
33. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, EPA will assess a six percent per year penalty on any principal amount not paid within 90 days of the date that this CAFO had been entered by the Regional Hearing Clerk.

#### **General Provisions**

34. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

35. This CAFO does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

36. This CAFO does not affect Respondent's responsibility to comply with CERCLA and other applicable federal, state and local laws, and regulations.

37. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for Section 103 of CERCLA.

38. The terms of this CAFO bind Respondent and its successors, and assigns.

39. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

40. Each party agrees to bear its own costs and fees, including attorneys' fees, in this action.

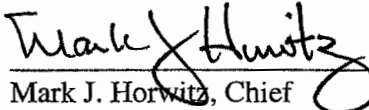
41. This CAFO constitutes the entire agreement between the parties.



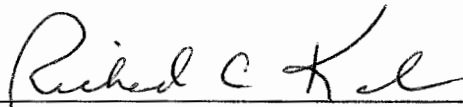
**SIGNATORIES**

**U.S. Environmental Protection Agency, Complainant**

Date: 3/20/08

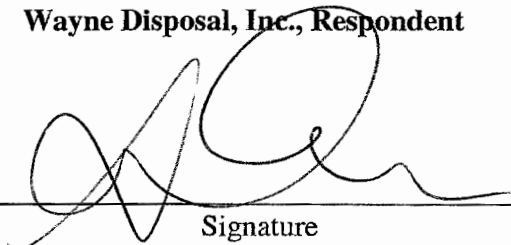
By:   
Mark J. Horwitz, Chief  
Chemical Emergency Preparedness  
and Prevention Section  
Emergency Response Branch 2  
Superfund Division  
U.S. EPA Region 5

Date: 3-21-08

By:   
Richard C. Karl, Director  
Superfund Division  
U.S. EPA Region 5

**Wayne Disposal, Inc., Respondent**

Date: 3/19/08

By:   
Signature  
Scott Maris VP O&HS  
Printed Name and Title

**Consent Agreement and Final Order**  
**IN THE MATTER OF:**  
**Wayne Disposal, Inc.**  
**Belleville, Michigan**  
Docket No: CERCLA-05-2008-0005

**Consent Agreement and Final Order**

**IN THE MATTER OF:**

**Wayne Disposal, Inc.**

**Belleville, Michigan**

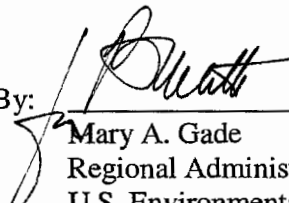
**Docket No: CERCLA-05-2008-0005**

**FINAL ORDER**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. IT IS SO ORDERED.

Date: 3-25-08

By: \_\_\_\_\_

  
Mary A. Gade  
Regional Administrator  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

**Certificate of Service**

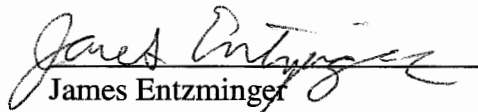
I, James Entzminger, certify that I hand delivered one original and one copy of the Consent Agreement and Final Order, docket number CERCLA-05-2008-0005 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, personally served a copy on the Regional Judicial Officer, via interoffice mail, and mailed one original by first-class, postage prepaid, certified mail, return receipt requested, to Wayne Disposal, Inc and Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Scott Maris, Vice President  
Wayne Disposal, Inc.  
49350 North I-94 Service Drive  
Belleville, MI 48111

Jeffrey L. Woolstrum, Attorney  
Honigman Miller Schwartz and Cohn L.L.P.  
2290 First National Building  
660 Woodward Avenue  
Detroit, MI 48226-3506

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on the 27 day of March, 2008.

  
James Entzminger  
U.S. Environmental Protection Agency  
Region 5

**Consent Agreement and Final Order  
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Wayne Disposal, Inc.  
Belleville, Michigan  
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