

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2008 MAR -6 PM 2:55  
REGIONAL HEARING  
CLERK

\_\_\_\_\_) X  
)  
In the Matter of: )  
)  
)  
Sunoco, Inc. )  
Eagle Point Facility )  
Route 130 and I-295 South )  
Westville, NJ )  
)  
Respondent. )  
\_\_\_\_\_) X

**MOTION TO WITHDRAW  
THE COMPLAINT**

Docket Number: CERCLA-02-2008-2004

**MOTION TO WITHDRAW THE COMPLAINT**

The Environmental Protection Agency ("EPA"), Region 2, makes this motion pursuant to 40 C.F.R. § 22.14(d) for permission for EPA to withdraw its complaint based upon the following information:

1. The Complaint ("Complaint") alleged that Respondent violated the notification requirements of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a) for its Eagle Point facility located on Route 130 and I-295 South, Westville, New Jersey (the "Facility").
2. The Complaint was primarily based upon information EPA received on or about November 16, 2006, from the Facility which provided a list of all CERCLA/EPCRA reportable releases of sulfur dioxide from its flares at the Facility.
3. The information provided on November 16, 2006, indicated that the Facility had excessive reportable releases of sulfur dioxide.
4. On or about December 12, 2007, Respondent filed its Answer denying the allegations contained in the Complaint.
5. On January 11, 2008, the parties participated in a settlement conference.
6. On February 7, 2008, Respondent submitted new information to EPA. The new

information indicates that the Facility had made a critical error in its method used to calculate the amounts of sulfur dioxide emitted from the Facility. The new information also indicates that the amounts of sulfur dioxide which the Facility had previously reported to EPA were erroneously high.

7. Based upon the new information provided by Respondent, EPA now believes that the most appropriate course is to seek permission of this Court to withdraw the Complaint that EPA filed in the above captioned matter.
8. EPA has discussed this matter with Respondent and it has agreed with EPA's decision to withdraw the Complaint without prejudice.

**THEREFORE**, the Complainant, after discussing this matter with the Respondent, petitions this Court to grant its motion to withdraw the Complaint.

**WHEREFORE**, Complainant prays that this Court will grant the aforementioned motion to withdraw the Complaint.

Dated: March 3, 2008



George Pavlou, Director  
Emergency and Remedial Response Division  
U.S. Environmental Protection Agency  
Region 2  
290 Broadway  
New York, NY 10007-1866

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

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In the Matter of:	)	Docket Number: CERCLA-02-2008-2004
	)	
Sunoco, Inc.	)	Motion To Withdraw the Complaint
Eagle Point Facility	)	
Route 130 and I-295 South	)	
Westville, NJ	)	
	)	
Respondent.	)	
_____	x	

**CERTIFICATION OF SERVICE**

I certify that on the date noted below, I caused to be sent, by certified mail, return receipt requested, a copy of the foregoing **“Motion to Withdraw the Complaint”** to the following person at the address listed below:

*Original and copy by interoffice mail to:*

Karen Maples  
Regional Hearing Clerk  
Region II  
U.S. Environmental Protection Agency  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866;

*Copy by facsimile and certified mail, return receipt requested, to:*

Attorney for Respondent:  
Amy M. Lincoln  
Beveridge & Diamond, PC  
1350 I Street, N.W.  
Suite 700  
Washington, D.C. 20005-3311  
Fax (202) 789-6190

*Copy by facsimile and overnight mail, to:*

Administrative Law Judge:  
The Honorable Susan L. Biro  
Chief Administrative Law Judge  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Mail Code 1900L  
401 M Street, S.W.  
Washington, D.C. 20460  
Fax (202) 565-0044.

3/5/08  
Date

Daniel E. Rivera  
Name: Daniel E. Rivera