

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103**

<b>In Re:</b>	:	
	:	
<b>Whitford Corporation 47 Park Avenue Elverson, PA 19520</b>	:	<b>Docket No. RCRA-03-2014-0222</b>
	:	
<b>RESPONDENT</b>	:	<b>CONSENT AGREEMENT</b>
	:	
<b>Whitford Corporation Elverson, PA 19520</b>	:	Proceeding under 3008(a) and (g) of the Resource Conservation and Recovery Act, <i>as amended</i> , 42 U.S.C. § 6928(a) and (g)
	:	
<b>FACILITY</b>	:	

RECEIVED  
 2014 AUG 21 AM 7:18  
 REGIONAL HEARINGS OFFICE  
 EPA REGION III PHILADELPHIA

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement (“CA”) is entered into by the Director, Land and Chemicals Division, United States Environmental Protection Agency, Region III (“Complainant” or “EPA”), and Whitford Corporation (“Whitford” or “Respondent”), pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous an Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA”), 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, this CA and the attached Final Order (“FO,” hereinafter jointly referred to as the “CAFO”) both commence and conclude the above-captioned administrative proceeding against Respondent, brought under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), for alleged violations of RCRA and the federally authorized Pennsylvania hazardous waste management regulations at Respondent's facility at 47 Park Avenue, Elverson, PA 19052 (the “Facility”).
  
2. The Commonwealth of Pennsylvania has received federal authorization to administer a Hazardous Waste Management Program (the “Pennsylvania Hazardous Waste Management Program”) in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939f. Effective January 30, 1986, the Commonwealth of Pennsylvania Hazardous Waste Regulations (“PaHWR”) were authorized by the U.S. Environmental Protection Agency (“EPA” or the “Agency”) pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A. The PaHWR subsequently were revised, and thereafter re-authorized by

EPA, effective November 27, 2000 (65 Fed. Reg. 57,734 (September 26, 2000)), effective March 22, 2004 (69 Fed. Reg. 2674 (January 20, 2004)) and effective June 29, 2009 (74 Fed. Reg. 19,453 (April 29, 2009)). The provisions of Pennsylvania's current authorized revised PaHWR, codified at 25 Pa. Code Chapters 260a-266a, 266b, and 268a-270a, have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a).

3. The factual allegations and legal conclusions in this CA are based on provisions of the PaHWR in effect at the time of the violations alleged herein.
4. This CA is entered into by Complainant and Respondent to address the violations alleged in the Findings of Fact, as set forth below.
5. For the purposes of this proceeding only, Respondent admits the jurisdictional allegations of this CA, as set forth in this CAFO.
6. Respondent neither admits nor denies the Findings of Fact contained in this CA, except as provided in Paragraph 5, above.
7. Respondent neither admits nor denies the Conclusions of Law contained in this CA, except as provided in Paragraph 5, above.
8. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations herein or to appeal the FO attached hereto.
9. The settlement agreed to by the parties in this CA reflects the desire of the parties to resolve this matter without litigation.
10. Respondent consents to the issuance of this CA and to the attached FO and agrees to comply with their terms. Respondent agrees not to contest Complainant's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement thereof.
11. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

**Notice of Action to the Commonwealth of Pennsylvania**

12. On September 25, 2013 EPA sent a letter to the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection ("PADEP"), giving Pennsylvania prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

## **II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

13. This section represents the Findings of Fact and Conclusions of Law made by Complainant in this matter in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). As set forth in Paragraphs 6 and 7, above, Respondent neither admits nor denies these Findings of Fact and Conclusions of Law, but agrees to this settlement to avoid further litigation, as set forth in Paragraph 9, above.
14. Respondent is, and was at the time of the violations alleged herein, a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 25 Pa. Code § 260a.10.
15. Respondent is, and was at the time of the violations alleged herein, the “owner” and “operator” of a “facility” located at 47 Park Avenue, Elverson, PA 19520 (the “Facility”), as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1, and, with respect to the term “facility”, as defined in 25 Pa. Code § 260a.10.
16. On May 16, 2013, representatives from EPA conducted a Compliance Evaluation Inspection (the “Inspection”) of the Facility. At the time of the Inspection, and at all times relevant to the violations alleged in this CAFO, Respondent was a “generator” of “hazardous waste” at the Facility as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference into 25 Pa. Code § 260a.1.
17. At the time of the May 16, 2013 Inspection, Respondent was engaged in the “storage” of “hazardous waste” in “containers” at the Facility as described herein, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference into 25 Pa. Code § 260a.1 and/or as defined in 25 Pa. Code § 260a.10.
18. On the basis of the May 16, 2013 Inspection and a review of information provided by Respondent subsequent thereto, EPA has determined that Respondent violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939f, and the federally authorized PaHWR requirements promulgated thereunder.

### **COUNT I**

#### **(Operating a Treatment, Storage, or Disposal Facility Without a Permit or Interim Status)**

19. The allegations of Paragraphs 1 through 18 of this CAFO are incorporated herein by reference as though fully set forth at length.
20. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), no person may own or operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility.

21. Respondent failed to obtain “interim status” pursuant to RCRA Section 3005(e), 42 U.S.C. § 6925(e), or 25 Pa. Code § 262a.10, or a permit issued pursuant to RCRA Section 3005(a), 42 U.S.C. § 6925(a) or 25 Pa. Code §270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), for the treatment, storage, or disposal of hazardous waste.
22. Pursuant to 25 Pa. Code § 262a.10 (which incorporates 40 C.F.R. § 262.34(a)), generators of hazardous waste who accumulate hazardous waste on-site in containers for 90 days or less are exempt from the requirement to obtain a permit or interim status for such accumulation, as long as the hazardous waste is stored in accordance with a number of conditions set forth in that section including, *inter alia*:
  - a. The waste is placed in containers and the generator complies with 40 C.F.R. Section 265, Subparts I, AA, BB, and CC;
  - b. The date that hazardous waste was first accumulated in the containers is clearly marked and visible for inspection; and
  - c. While being accumulated on-site, each container and tank is labeled or marked clearly with the words “Hazardous Waste.”
23. 25 Pa. Code § 262a.10 (which incorporates by reference 40 C.F.R. § 262.34(c)(1), which, in turn, references 40 C.F.R. § 265.173(a)) provides that a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any 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 interim status and without complying with 40 C.F.R. § 262.34(a), provided he:
  - a. Complies with 40 C.F.R. §§ 265.171, 265.172, and 265.173(a); and
  - b. Marks his containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.

**Greater than 90-Day Storage**

24. From January 24, 2013 until May 24, 2013, Respondent stored one (1) 55-gallon drum of hazardous waste at the Facility for a time period greater than ninety (90) days. Therefore, Respondent failed to comply with the condition for temporary storage of hazardous waste without a permit or interim status as set forth in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a).

Dates in Storage

From 1/24/13 until 5/24/13

Storage > 90 Days

30 Days (April 24 - May 24, 2013)

**Failure to Keep Containers Closed – Condition for 90-Day and Satellite Accumulation Exemptions**

25. At the time of the May 16, 2013 Inspection, Respondent failed to keep closed three (3) hazardous waste containers even though it was not necessary to add or remove waste and therefore failed to comply with the condition for temporary storage of hazardous waste without a permit or interim status as set forth in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), which, in turn, incorporates by reference Part 265, Subpart I, which includes 40 C.F.R. § 265.173(a), which requires that such containers remain closed. Additionally, Respondent failed to comply with a condition for satellite accumulation of hazardous waste without a permit, interim status, or complying with 40 C.F.R. § 262.34(a), as set forth in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(c)(1)(i), which, in turn, incorporates by reference 40 C.F.R. § 265.173(a), which requires that such containers remain closed.

**Failure to Label Containers – Condition for 90-Day and Satellite Accumulation Exemptions**

26. At the time of the May 16, 2013 Inspection, Respondent failed to label one (1) 55-gallon drum of hazardous paint waste with the words “Hazardous Waste” and therefore failed to comply with a condition for temporary storage of hazardous waste without a permit or interim status as set forth in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(3). Additionally, Respondent failed to comply with a condition for satellite accumulation of hazardous waste without a permit, interim status, or complying with 40 C.F.R. § 262.34(a), as set forth in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(c)(1)(ii).

**Storage of Hazardous Waste at the Facility Without a Permit or Interim Status**

27. From April 24 – May 24, 2013, as set forth in Paragraphs 24-26, Respondent failed to qualify for the “90 day or less” and satellite accumulation exemptions of 25 Pa. Code § 262a.10, which incorporate by reference 40 C.F.R. § 262.34(a) (storage without a permit or interim status) and 40 C.F.R. § 262.34(c) (satellite accumulation).
28. By virtue of Respondent’s failure to qualify for the “90 day or less” and satellite accumulation exemptions, Respondent’s Facility is a hazardous waste treatment, storage, or disposal “facility,” as that term is defined by 25 Pa. Code § 260a.10, with respect to the activities described in Paragraphs 24-26.
29. By virtue of Respondent’s failure to qualify for the “90 day or less” and satellite accumulation exemptions, Respondent was required by 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to have a permit for the activities described in Paragraph 24-26, above.

30. Respondent has never had a permit or interim status pursuant to 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005 of RCRA, 42 U.S.C. § 6925.
31. From April 24, 2013 through May 24, 2013, Respondent violated 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by storing hazardous waste in containers at the Facility without a permit, interim status or valid exemption.

**COUNT II**

**(Failure to Keep Closed Containers of Hazardous Waste)**

32. The allegations of Paragraphs 1 through 31 of this CAFO are incorporated herein by reference as though fully set forth at length.
33. 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173 (a), provides that a container holding hazardous waste must always be closed during storage, except when necessary to add or remove waste.
34. At the time of the May 16, 2013 Inspection, Respondent failed to keep closed three (3) hazardous waste containers at all times except when adding or removing waste, in violation of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a).

**COUNT III**

**(Failure to Keep Closed Containers of Universal Waste)**

35. The allegations of Paragraphs 1 through 34 of this CAFO are incorporated herein by reference as though fully set forth at length.
36. 40 C.F.R. § 273.9, as incorporated by reference in 25 Pa. Code § 266b.1, defines “Universal Waste” as including, *inter alia*, “lamps” as described in 40 C.F.R. § 273.5.
37. 40 C.F.R. § 273.9, as incorporated by reference in 25 Pa. Code § 266b.1, defines “lamp” as “the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy....Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.”
38. 40 C.F.R. § 273.5, as incorporated by reference in 25 Pa. Code § 266b.1, specifies that lamps are covered under 40 C.F.R. Part 273 except for lamps that are not yet wastes under 40 C.F.R. Part 261, and lamps that are not hazardous waste.

39. 40 C.F.R. § 273.9, as incorporated by reference in 25 Pa. Code § 266b.1, defines a “small quantity handler of universal waste” as one who does not accumulate 5,000 kilograms or more of universal wastes at any time.
40. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d)(1), requires, among other things, that a small quantity handler of universal waste, specifically, universal waste “lamps,” contain such lamps in structurally-sound containers or packages that remain closed and lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
41. At the time of the May 16, 2013 Inspection, Respondent was a “small quantity handler of universal waste” as that term is defined at 40 C.F.R. § 273.9.
42. At the time of the May 16, 2013 Inspection, Respondent was storing one (1) container of universal waste lamps at the Facility that was not closed, in violation of 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d)(1).

#### **COUNT IV**

##### **(Failure to Label Containers of Universal Waste Lamps)**

43. The allegations of Paragraphs 1 through 42 of this CAFO are incorporated herein by reference as though fully set forth at length.
44. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e), requires that each lamp, or container or package containing such lamps being stored by small quantity handlers of universal waste, must be clearly marked or labeled with one of the following phrases: “Universal Waste-Lamp(s)” or “Waste Lamp(s)” or “Used Lamp(s).”
45. At the time of the May 16, 2013 Inspection, Respondent, a small quantity handler of universal waste, was storing at the Facility one (1) container of waste lamps that was not labeled with the phrases “Universal Waste-Lamp(s)” or “Waste Lamp(s)” or “Used Lamp(s),” in violation of 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e).

#### **COUNT V**

##### **(Failure to Demonstrate Duration of Universal Waste Accumulation)**

46. The allegations of Paragraphs 1 through 45 of this CAFO are incorporated herein by reference as though fully set forth at length.
47. 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.15(c), requires that small quantity handlers of universal waste who accumulate universal waste must be able to demonstrate the length of time that the universal waste has been accumulated,

from the date it became a waste or was received. The methods by which a small quantity handler may demonstrate this are listed at 40 C.F.R. § 273.15(c)(1)-(6).

48. At the time of the May 16, 2013 Inspection, Respondent, a small quantity handler of universal waste, failed to demonstrate, using any one of the six methods, the length of time that one (1) container of universal waste lamps was accumulated at the facility, in violation of 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.15(c).

### **III. CIVIL PENALTIES**

49. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this CAFO, Respondent consents to the assessment of a civil penalty in the amount of **\$20,240**, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct signed copy of this CAFO, fully executed by the parties, signed by the Regional Administrator or his designee, the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest in connection with such civil penalty as described in this CAFO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.
50. The civil penalty settlement amount set forth in Paragraph 49, immediately above, was determined after consideration of the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June 2003 ("RCRA Penalty Policy") (which includes the effect of the penalty on Respondent's ability to continue in business), which reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. § 6928(a)(3) and (g). Complainant has also considered the Adjustment to Civil Penalties for Inflation, 40 C.F.R. Part 19, and the November 16, 2009 memorandum by EPA Waste and Chemical Enforcement Division Director Rosemarie A. Kelley *Adjusted Penalty Policy Matrices Based on the 2008 Civil Monetary Penalty Inflation Adjustment Rule* ("Kelley Memorandum").
51. Respondent shall remit payment for the civil penalty set forth in Paragraph 49, above, by certified check or cashier's check, or by electronic funds transfer, in the following manner:
- A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2014-0222;
  - B. All checks shall be made payable to "United States Treasury";



- C. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Contact: 513-487-2076 or 513-487-2091

- D. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101

Contact: 314-418-1818

- E. All payments made by check in any currency drawn with no USA branches shall be addressed to:

Cincinnati Finance  
U.S. EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

- F. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

- G. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

U.S. Treasury REX/Cashlink ACH Receiver  
ABA=051036706  
Account No.: 310006, U.S. Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical Location of U.S. Treasury Facility  
5700 Rivertech Court  
Riverdale, Maryland 20737

Contact: 202-874-7026 (U.S. Treasury) or 1-866-234-5681 (REX)

H. On-Line Payment Option:

WWW.PAY.GOV

Enter sfo 1.1 in the search field. Open and complete the form.

Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

I. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Joyce A. Howell  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC30)  
1650 Arch Street  
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC00)  
1650 Arch Street  
Philadelphia, PA 19103-2029

52. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this CAFO.
53. Pursuant to 31 U.S.C. Section 3717 and 40 C.F.R. Section 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
54. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. Section 13.11(a).
55. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. Section 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
56. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. Section 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

#### **IV. CERTIFICATION OF COMPLIANCE**

57. The person signing this CA on behalf of the Respondent certifies to EPA by his or her signature herein that Respondent, as of the date of its execution of this CAFO, is in compliance with the provisions of RCRA, Subtitle C, 42 U.S.C. §§ 6901 *et seq.*, and the Commonwealth of Pennsylvania's federally authorized hazardous waste program set forth at 25 Pa. Code §§ 260a.1 *et seq.* at the Facility referenced herein. This certification is based on the personal knowledge of the signer or an inquiry of the person or persons responsible for the Facility's compliance with Subtitle C of RCRA.

**V. OTHER APPLICABLE LAWS**

58. Nothing in this CAFO shall relieve Respondent of any duties or obligations otherwise imposed upon it by applicable Federal, State or local laws or regulations.

**VI. RESERVATION OF RIGHTS**

59. This CAFO resolves only EPA's claims for civil penalties for the specific violations of RCRA Subtitle C which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated there under, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO.

**VII. FULL AND FINAL SATISFACTION**

60. The settlement set forth in this CAFO shall constitute full and final satisfaction of Complainant's claims for civil penalties under Sections 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), for the specific violations set forth in the CAFO.

**VIII. PARTIES BOUND**

61. This CAFO shall apply to and be binding upon EPA, Respondent, and Respondent's officers (in their official capacity) and Respondent's successors and assigns. By his/her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized to enter into this Agreement on behalf of Respondent and to bind Respondent to the terms and conditions of this CAFO.

**IX. EFFECTIVE DATE**

62. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

**X. ENTIRE AGREEMENT**

63. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, PA 19103-2029**

<b>In Re:</b>	:	
	:	
<b>Whitford Corporation</b>	:	<b>Docket No. RCRA-03-2014-0222</b>
<b>47 Park Avenue</b>	:	
<b>Elverson, PA 19520</b>	:	
	:	
<b>RESPONDENT</b>	:	<b>FINAL ORDER</b>
	:	
<b>47 Park Avenue</b>	:	
<b>Elverson, PA 19520</b>	:	
	:	
<b>FACILITY</b>	:	


**FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, **Whitford Corporation** have executed a document entitled "Consent Agreement" which I ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are incorporated herein by reference.

NOW, THEREFORE, pursuant to Section 22.18(b)(3) of the Consolidated Rules of Practice and Section 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a) and (g), and based upon the representations of the parties set forth in the Consent Agreement that the civil penalty amount agreed to by the parties in settlement of the above-captioned matter is based upon a consideration of the factors set forth in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), IT IS HEREBY ORDERED THAT Respondent shall pay a civil penalty in the amount of TWENTY-THOUSAND TWO-HUNDRED AND FORTY DOLLARS (**\$20,240**) as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of the U.S. EPA Region III or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 8-20-14

BY:   
Heather Gray  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region III

**UNITED STATES ENVIRONMENTAL PROTECTION  
AGENCY REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania  
19103**

**In Re:**

**Whitford Corporation  
47 Park Avenue  
Elverson, PA 19520**

**RESPONDENT**

**Whitford Corporation  
Elverson, PA 19520**

**FACILITY**

**Docket No. RCRA-03-2014-0222**

Proceeding under 3008(a) and (g) of the  
Resource Conservation and Recovery  
Act, *as amended*, 42 U.S.C. § 6928(a) and  
(g)

**CERTIFICATE OF SERVICE**

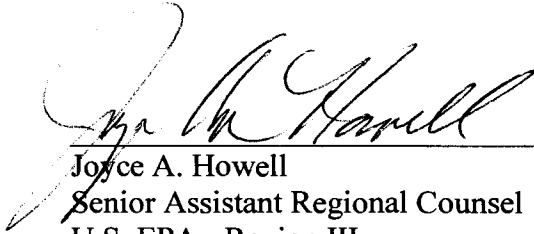
I certify that I sent a copy of the Consent Agreement and Final Order to the addressee listed below. The original and one copy of the Consent Agreement and Final Order were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Via UPS, next day delivery:

Rodd Bender, Esq.  
Manko, Gold, Katcher & Fox LLP  
401 City Avenue  
Bala Cynwyd, PA 19006

Dated:

July 21, 2014

  
\_\_\_\_\_  
Joyce A. Howell  
Senior Assistant Regional Counsel  
U.S. EPA - Region III

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