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September 24, 2009

Via Overnight Delivery

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

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REGIONAL HEARING CLERK  
USEPA  
REGION 5

Re: *In the Matter of: Creative Liquid Coatings, Inc., Elite Enterprises, Inc. and Randall Geist*  
Docket Nos. RCRA-05-2009-0012 and RCRA-05-2009-0013

Dear Clerk:

Enclosed for filing please find an original and two copies of the following documents:

- Creative Liquid's and Randall Geist's Answer and Request for Hearing (Docket No. RCRA-05-2009-0012)
- Creative Liquid's and Randall Geist's Answer and Request for Hearing (Docket No. RCRA-05-2009-0013)

Please file-stamp the documents and return one file-stamped copy of each in the enclosed self-addressed, stamped envelope. Thank you very much for your assistance. Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,



David L. Hatchett

DLH:djl  
Enclosures

Cc: Richard J. Clarizio, U.S. EPA

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 5**

IN THE MATTER OF:	)	
	)	DOCKET NO. RCRA-05-2009-0012
Creative Liquid Coatings, Inc.	)	
(formerly doing business as Creative Coatings, Inc.)	)	
2701 S. Coliseum Blvd.	)	Complaint and Compliance Order and
Suite 1284	)	Notice of Opportunity for Hearing
Fort Wayne, IN 46803	)	pursuant to Section 3008(a) of the
	)	Resource Conservation and Recovery
U.S. EPA ID No. INR 000 109 322	)	Act, 42 U.S.C. §6928(a)
	)	
Elite Enterprises, Inc.	)	
	)	
AND	)	
	)	
Randall Geist	)	
	)	
Respondents	)	

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**CREATIVE LIQUID'S AND RANDALL GEIST'S ANSWER**  
**AND REQUEST FOR HEARING**

Creative Liquid Coatings, Inc. ("CLC") and Randall Geist (collectively, "Answering Respondents") answer the U.S. EPA's Complaint and Compliance Order ("Complaint") and request a hearing in this matter:

**I. COMPLAINT**

1. This is a civil administrative action instituted under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. §6928(a). RCRA was amended in 1984 by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. §§ 6921-6939. This action is also instituted under Section 22.1(a)(4), 22.13 and 22.37 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits" (Consolidated Rules), codified at 40 C.F.R. Part 22.

**ANSWER:** Answering Respondents admit that U.S. EPA is bringing an administrative action under Section 3008(a) of RCRA. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required.

2. Jurisdiction for this action is conferred upon the United States Environmental Protection Agency (EPA) by Section 2002(a)(1), 3006(b), and 3008 of RCRA; 42 U.S.C. §§ 6912(a)(1), 6926(b), and 6928.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required.

3. The Complainant is, by lawful delegation, the Director, Land and Chemicals Division, Region 5, EPA.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

4. The Respondents are Creative Liquid Coatings, Inc., formerly doing business as Creative Coatings, Inc., Elite Enterprises, Inc. and Randall Geist. For the purpose of this Complaint the location of the alleged violations is 2701 South Coliseum Blvd. Suite 1284, Fort Wayne, Indiana 46803 (Suite 1285 or Creative Liquid Coatings, Inc.).

**ANSWER:** Answering Respondents admit that EPA has named CLC and apparently Mr. Geist as respondents in the instant administrative action and that U.S. EPA's allegations involve 2701 South Coliseum Blvd. Suite 1284, Fort Wayne, Indiana 46803. Mr. Geist states there is no colorable claim against him individually and asserts that EPA should remove him as a respondent immediately. Answering Respondents deny the remaining allegations of this paragraph.

5. EPA provided notice of commencement of this action to the State of Indiana pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. §6928(a)(2).

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

6. EPA promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store and dispose of hazardous waste, including used oil.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

7. Under Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated under Subtitle C (Sections 3001-3023) of RCRA, 42 U.S.C. §§ 6921-6939(e) or of any state provision authorized under Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

8. Under Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of EPA granted the State of Indiana final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg. 3953 (January 31, 1986). The Administrator of EPA granted Indiana final authorization to administer certain HSWA and additional RCRA requirements effective January 4, 2001, 66 Fed. Reg. 733 (January 4, 2001); October 21, 1996, 61 Fed. Reg. 43018 (August 20, 1996); January 19, 1999, 63 Fed. Reg. 56086 (October 21, 1998); October 30, 1999, 64 Fed. Reg. 47692 (September 1, 1999); January 4, 2001, 66 Fed. Reg. 733 (January 4, 2001); December 6, 2001, 66 Fed. Reg. 63331 (December 6, 2001); July 1, 2002, 67 Fed. Reg. 44069 (July 1, 2002). The Indiana regulations, authorized by EPA, and incorporated by reference, are codified at 329 Indiana Administrative Code (IAC) Article 3.1 *et seq.* See also, 40 C.F.R. § 272.751.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

9. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), provides EPA with the authority to enforce State regulations in those States authorized to administer a hazardous waste program.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves. To the extent a response is required, Answering Respondents deny that the cited provision necessarily allows EPA to enforce state regulations.

10. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

11. Any violation of regulations promulgated pursuant to Subtitle C, Section 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6039, or any State program approved by EPA pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, constitutes a violation of RCRA, subject to the assessment of civil or criminal penalties and compliance orders as provided in § 3008 of RCRA, 42 U.S.C. § 6928.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves. Answering Respondents note that a portion of the referenced regulations is incorrect.

12. Under 329 IAC §§ 3.1-1-7, 4-1, 6-1, a *solid waste* is defined as any discarded material that is not excluded by 40 C.F.R. § 261.4(a) or that is not excluded pursuant to 40 C.F.R. §§ 260.30 and 260.31. See also, 40 C.F.R. § 261.2.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves. Answering Respondents note that the definition has not been quoted *verbatim* from the cited regulation.

13. Under 329 IAC §§ 3.1-1-7, 4-1, and 6-1, a *hazardous waste* is defined as a solid waste, as defined in 40 C.F.R. § 261.3, that is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4; and meets any of the criteria in 40 C.F.R. 261.21, 40 C.F.R. § 261.22, 40 C.F.R. § 261.23, 40 C.F.R. § 261.24, 40 C.F.R. § 261.31, AND 40 C.F.R. § 261.32. *See also* 40 C.F.R. § 261.3.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves. Answering Respondents note that a portion of the referenced regulations is incorrect and that the definition has not been quoted *verbatim* from the cited regulation.

14. Under 329 IAC §§ 3.1-1-7 and 4-1, a *facility* includes all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units. *See also*, 40 C.F.R. § 260.10.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves. Answering Respondents note that the definition has not been quoted *verbatim* from the cited regulation.

15. Under 329 IAC §§ 3.1-1-7 and 4-1, a *hazardous waste management unit* is a contiguous area of land on or in which hazardous waste is placed. It includes a container storage area. *See also*, 40 C.F.R. § 260.10.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves. Answering Respondents note that the definition has not been quoted *verbatim* from the cited regulation.

16. Under 329 IAC § 3.1-4-20, a *person* is defined to include an individual, partnership, corporation, association and other entities. *See also*, 40 C.F.R. § 260.10.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves. Answering Respondents note that the definition has not been quoted *verbatim* from the cited regulation.

17. Under 329 IAC §§ 3.1-1-7 and 4-1, an *operator* is defined as the person responsible for the overall operation of a facility. *See also*, 40 C.F.R. § 260.10.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

18. Under 329 IAC §§ 3.1-1-7 and 4-1, an *owner* is defined as the person who owns a facility or part of a facility. *See also*, 40 C.F.R. § 260.10.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

19. Under 329 IAC §§ 3.1-1-7 and 4-1, *storage* is defined as the holding of hazardous waste for a temporary period at the end of which the hazardous waste is treated, disposed of, or stored elsewhere. *See also*, 40 C.F.R. 260.10.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

20. Under 329 IAC §§ 3.1-1-7 and 13-1, the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a permit for the hazardous waste management activity is prohibited. *See also*, 40 C.F.R. § 270.1(c).

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

21. Under 329 IAC 3.1-1-7 and 4-1 a *generator* is defined as any person, by site, whose act or process produces hazardous waste identified or listed in part 261 or whose act first causes a hazardous waste to become subject to regulation. *See also*, 40 C.F.R. 260.10.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

22. Under 329 IAC §§ 3.1-1-7 and 7-1, a generator of hazardous waste may accumulate or store hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the generator marks or clearly labels each container and tank containing hazardous waste with the words *Hazardous Waste* during the hazardous waste accumulation period, and complies with, among other things, the requirements for owners or operators in 40 C.F.R. § Part 265, Subpart I, and with 40 C.F.R. 265.174. *See also*, 40 C.F.R. § 262.34(a).

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

23. Under 320 IAC §§ 3.1-1-7 and 7-1, a generator may accumulate hazardous waste on-site for less than 90-days without a permit or without having interim status provided it satisfies certain requirements. *See also*, 40 C.F.R. § 262.34(a) and (b).

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

24. Under 329 IAC §§ 3.1-1-7 and 7-1, a generator of hazardous waste who accumulates hazardous wastes on-site in containers must label each container with the date on which each period of accumulation begins and it must be visible for inspection. *See also*, 40 C.F.R. § 262.34(a)(2).

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

25. Under 329 IAC §§ 3.1-1-7 and 7-1, the generator must have a contingency plan that lists names, addresses, and phone numbers (office and home) of all persons qualified to act as

emergency coordinator, and this list must be kept up to date. *See also*, 40 C.F.R. §§ 262.34(a)(4) and 265.52 (d).

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

26. Under 329 IAC §§ 3.1-1-7, 7-1, and 10-1 a generator must have a contingency plan that lists all emergency equipment (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities. *See also*, 40 C.F.R. §§ 262.34(a)(4) and 265.52(e).

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

27. Under 329 IAC §§ 3.1-1-7, 7-1 and 10-1, a generator must have a contingency plan that includes an evacuation plan for the facility personnel. *See also* 40 C.F.R. §§ 262.34(a)(4) and 265.52(f).

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

28. Under 329 IAC §§ 3.1-1-7, 7-1, and 10-1, a generator must have personnel training that is designed to ensure the employees' ability to respond effectively to emergencies. *See also*, 40 C.F.R. §§ 262.34(a)(4) and 265.16(a).

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

29. Under 329 IAC §§ 3.1-1-7, 7-1 and 10-1, a generator must require facility personnel to take part in an annual review of the initial training required in 40 C.F.R. § 265.16(a). *See also*, 40 C.F.R. §§ 262.34(a)(4) and 265.16(c).

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

30. Under 329 IAC §§ 3.1-1-7, 7-1 and 10-1, a generator must retain at the facility specific documents and records. Further, it requires that training records be kept for existing employees until the closure. *See also*, 40 C.F.R. §§ 262.34(a)(4) and 265.16(d) and (e).

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

31. Under 329 IAC Article 3.1, in particular 329 IAC 3.1-7-1, provides that the owner or operator of a hazardous waste facility who transports, or offers for transportation, hazardous waste for offsite treatment, storage or disposal must use a properly completed uniform hazardous waste manifest (EPA form 8700-22). *See also* 40 C.F.R. § 262.20(a).

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves. Answering Respondents note that “owner or operator of a hazardous waste facility” does not specifically appear in the referenced regulation.

32. Creative Coatings, Inc. was founded in or about 1995 and did business at 7505 Freedom Way, Fort Wayne, Indiana (Freedom Way location).

**ANSWER:** Answering Respondents admit that Creative Coatings, Inc. filed articles of incorporation with the State of Indiana in 1996 and had operations at 7505 Freedom Way in Fort Wayne, Indiana. Answering Respondents deny the remaining allegations of this paragraph.

33. Creative Coatings, Inc. discontinued operations at the Freedom Way location in or about 2003. Creative Coatings, Inc. started operations at 2701 Coliseum Boulevard, Suite 1284, Fort Wayne, Indiana (“Suite 1284”) in or about 2003.

**ANSWER:** Answering Respondents deny the allegations of this paragraph.

34. Creative Coatings, Inc. changed its name to Creative Liquid Coatings, Inc. in 2005. In this complaint references to Creative Liquid Coatings and/or Creative Coatings, Inc. refer to the same entity.

**ANSWER:** Answering Respondents admit that Creative Coatings, Inc. changed its name to “Creative Liquid Coatings, Inc.” in 2005. Regarding the remaining allegations in this paragraph, the Complaint speaks for itself.

35. Creative Liquid Coatings, Inc. continued operations at Suite 1284 and presently operates at that location.

**ANSWER:** Answering Respondents admit that CLC presently operates at Suite 1284. Answering Respondents deny the remaining allegations of this paragraph.

36. Creative Liquid Coatings, Inc. and Creative Coatings, Inc. are corporations organized under the laws of the state of Indiana.

**ANSWER:** Answering Respondents admit that CLC is an Indiana corporation. Answering Respondents deny the remaining allegations of this paragraph.

37. Elite Enterprises, Inc. is a corporation organized under the laws of the state of Indiana.

**ANSWER:** As these allegations are not directed toward Answering Respondents, Answering Respondents make no response.

38. Randall Geist has a home located at 2715 Clifford Lane, Fort Wayne, Indiana 46825-7133. He has owned 80% of the stock of Elite Enterprises, Inc. since approximately 1994.

**ANSWER:** Answering Respondents admit that Randall Geist has a home located at 2715 Cliffwood Lane, Fort Wayne, Indiana. Geist admits the allegation in the last sentence.



39. Randall Geist owns more than 50% of the stock in Creative Liquid Coatings, Inc. He is the President of Creative Liquid Coatings, Inc.

**ANSWER:** Answering Respondents admit the allegations of this paragraph.

40. Richard Lain was the Vice-President of Finance and Chief Financial Officer (CFO) of Creative Coatings, Inc., Creative Liquid Coatings, Inc. and Elite Enterprises, Inc.

**ANSWER:** Answering Respondents admit that Richard Lain was at some point Vice-President of Finance and Chief Financial Officer (CFO) of CLC and of Elite.

41. Creative Coatings, Inc. and Elite Enterprises, Inc. provided custom painting of plastic and metal parts and components.

**ANSWER:** Answering Respondents admit that CLC's operations at various times involved custom painting of plastic and/or metal parts and components. As the remaining allegations are not directed toward Answering Respondents, Answering Respondents make no response.

42. Creative Coatings, Inc. and Elite Enterprises, Inc. conducted painting operations at 2701 South Coliseum Boulevard, Fort Wayne, Indiana. This is the site of the former International Harvester truck manufacturing complex in Fort Wayne, Indiana (complex).

**ANSWER:** Answering Respondents deny that Creative Coatings, Inc. conducted painting operations at a suite within 2701 South Coliseum Boulevard and admits that CLC conducted painting operations there some time in or after September 2005. Answering Respondents admit that the complex, which currently includes various unaffiliated business operations within the much larger complex, is sometimes referred to as the former International Harvester complex. As the remaining allegations are not directed toward Answering Respondents, Answering Respondents make no response.

43. The complex is presently known as the International Park Commerce and Industrial Business Center (International Park). It is owned by Wayne Coliseum Limited Partnership (Wayne Coliseum).

**ANSWER:** Answering Respondents admit that the complex is sometimes referred to as the International Park Commerce and Industrial Business Center. Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

44. The complex consists of approximately 103 acres. It includes approximately 3 million square feet of various buildings and structures. There are no street names or numbers within the complex. There are suite numbers associated with various locations within International Park. Tenants retain the original suite number regardless of where they relocate within International Park.

**ANSWER:** Answering Respondents deny that tenants necessarily maintain the original suite number after relocation, and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

45. Creative Coatings, Inc. subleased space within International Park to Elite Enterprises, Inc. from January 3, 2003, to December 31, 2004. At that time Creative Coatings, Inc. purchased Elite Enterprises, Inc.'s paint and related equipment located within International Park.

**ANSWER:** Answering Respondents admit that Creative Coatings subleased space within International Park to Elite Enterprises, Inc. from January 3, 2004, to March 1, 2006. Answering Respondents admit that CLC purchased from Elite Enterprises, Inc. and then leased back to Elite Enterprises, Inc. certain paint-related equipment on or around January 3, 2004. Answering Respondents deny the remaining allegations of this paragraph.

46. On or about March 31, 2004, Creative Coatings, Inc. took over from Elite Enterprises, Inc. the operation of two surface coating lines located within International Park. The operations include one overhead conveyor paint line and one floor conveyor paint line.

**ANSWER:** Answering Respondents deny the allegations of this paragraph.

47. Respondents have referred to Suite 1158 as Building or Plant 1. There are four paint booths (PB1-4) at Suite 1158 by April of 2003.

**ANSWER:** Answering Respondents admit that Suite 1158 is sometimes referred to as Plant 1 and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

48. Respondents have referred to Suites 1284 and 1206 as Building or Plant 2. By April of 2003 there were overhead and floor painting lines located within Suite 1284.

**ANSWER:** Answering Respondents admit that Suite 1284 and is sometimes referred to as Plant 2 and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

49. Elite Enterprises, Inc. operated in Building 5 within International Park from approximately 1992-1993. It used suite number 1158 at that time. Elite Enterprises, Inc. changed its name to Elite Enterprises, Inc. and moved to Building 13 within International Park in 1993. It retained Suite number 1158 for operations within Building 13. Elite Enterprises, Inc. continued operations within Building 13 but changed suite numbers to Suite 1284 in 2003.

**ANSWER:** As these allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

50. Building 13 within International Park contained operations that were identified as Suite 1158 (1993-2002) and Suite 1284 (after 2003).

**ANSWER:** Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

51. Elite Enterprises, Inc. conducted painting operations at Suite 1284 from approximately 1994 to April of 2003.

**ANSWER:** As these allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

52. Elite Enterprises, Inc. moved its painting work to Suite 1158 in April of 2003.

**ANSWER:** As these allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

53. Elite Enterprises, Inc. moved its prime painting operations from Suite 1158 to Suite 1284 in August 2003.

**ANSWER:** As these allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

54. By October 2004 a dual use paint booth (base coat and clear coat) was permitted for operation at Building 2, Suite 1206 under the name Creative Liquid Coatings.

**ANSWER:** Answering Respondents admit that an October 2004 administrative amendment amended Part 70 Permit No. T003-7588-00205, which amendment describes a dual use paint booth at "Plant 2 (Creative Coatings, Inc., Suite 1206)." Answering Respondents deny the remaining allegations of this paragraph.

55. Elite Enterprises, Inc. discontinued operations at Suite 1158 in February 2006.

**ANSWER:** As these allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

56. Elite Enterprises, Inc. conducted painting operations at Suite 1158 from approximately April 2003 to February 2006.

**ANSWER:** As these allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

57. On July 2, 2003, Gregg David, as the Plant Manager, signed an initial notification for QP2 doing business at Suite 1284. He identified QP2 as a large quantity generator of waste with

the hazardous waste codes F001, F003, F005 and D035. Hazardous Waste Identification Number INR000109322 was assigned to this location.

**ANSWER:** The referenced document speaks for itself. As these allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

58. On March 1, 2004, Gregg David as the Plant Manager signed an initial notification for Creative Coating, Inc. at Suite 1284. He indicated that it was a large quantity generator of waste with hazardous waste codes F001, F003, F005 and D035. He identified the owner as Custome Coatings, Inc. Hazardous Waste Identification Number INR000109322 was assigned to this location.

**ANSWER:** The referenced document speaks for itself. To the extent a response is required, Answering Respondents admit that RCRA ID # INR000109322 was assigned to this location. Answering Respondents deny that Gregg David, an employee of Elite Enterprises, Inc., submitted a Notification of Regulated Waste Activity dated March 1, 2004 on behalf of Creative Coatings and deny the remaining allegations of this paragraph.

59. On May 14, 2004, Gregg David on Creative Coatings, Inc. stationary informed the Indiana Department of Environmental Management (IDEM) that QP2 was an exploratory company and did not go into operations. He indicated that the waste generating and handling activities should be assigned to Creative Coatings, Inc. Hazardous Waste Identification Number INR000109322 was assigned to this location.

**ANSWER:** The referenced document speaks for itself. To the extent a response is required, Answering Respondents deny Gregg David, an employee of Elite Enterprises, Inc., submitted a letter to IDEM on behalf of Creative Coatings. Answering Respondents admit that RCRA ID # INR000109322 was assigned to this location.

60. On February 23, 2005, Richard Lain, as “VP Finance” for Creative Coatings, Inc. submitted a subsequent Notification to change the name of the company and add waste codes. He indicated that the name should be changed from Creative Coatings, Inc. to Elite Enterprises, Inc. He added hazardous waste codes D001, D007 and D008. He changed the name of the company and the owner to Elite Enterprises, Inc. Hazardous Waste Identification Number INR000109322 was assigned to this location.

**ANSWER:** The referenced document speaks for itself. To the extent a response is required, Answering Respondents deny that the February 23, 2005 Hazardous Waste Handler Identification form identifies Richard Lain as the VP – Finance for Creative Coatings, Inc. Answering Respondents admit that RCRA ID # INR000109322 was assigned to this location and deny the remaining allegations of this paragraph.

61. On April 25, 2005, Richard Lain, as Chief Financial Officer (CFO), for Elite Enterprises requested IDEM to deactivate the Hazardous Waste Identification Number for Creative Coatings, Inc. at the Suite 1284 location because Elite Enterprises, Inc. already had a Hazardous Waste Identification Number for its operations at Suite 1158.

**ANSWER:** The referenced document speaks for itself. To the extent a response is required, Answering Respondents deny that the April 25, 2005 letter refers to or discusses Creative Coatings and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

62. On June 24, 2005, IDEM informed Creative Coatings, Inc. that separate Hazardous Waste Identification Numbers were needed for Suite 1158 and 1284 since the two locations are separated by several complex roads and Creative Coatings, Inc. was generating a majority of the wastes.

**ANSWER:** The referenced document speaks for itself. To the extent a response is required, Answering Respondents admit that the June 24, 2005 IDEM letter is addressed to "David Gregg" and that Gregg David was an employee of Elite Enterprises at that time. Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

63. On December 23, 2005, Richard Lain, as the CFO of Elite Enterprises, Inc. submitted an amendment to the notification for the business located at Suite 1284. It was the same as April 25, 2005, Notification except that it eliminated hazardous waste codes D001 and D007.

**ANSWER:** The referenced document speaks for itself. As these allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents note that the December 2005 document appears to reference code D001, and Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

64. On or about April 8, 2006, Richard Lain as CFO of Elite Enterprises, Inc. submitted a Notification which showed that the name of the business and the owner of Suite 1284 should be changed from Elite Enterprises, Inc. to Creative Liquid Coatings, Inc. It changed the status of the business from a small quantity generator to a large quantity generator.

**ANSWER:** The referenced submittal speaks for itself. To the extent a response is required, Answering Respondents deny that the April 8, 2006 Hazardous Waste Handler Identification form indicates that the status of the operation changed from a small quantity generator to a large quantity generator, and Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

65. On or about January 30, 2008, Randall Geist, as President of Creative Liquid Coatings, Inc. submitted a Notification showing that Creative Liquid Coatings, Inc. was the owner of the business at Suite 1284. He identified Creative Liquid Coatings, Inc. as a large quantity generator of hazardous waste in 2007.

**ANSWER:** The referenced document speaks for itself. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

66. October 5, 2005, EPA sent separate requests for information to Elite Enterprises, Inc. and Creative Coatings, Inc. for operations at Suite 1158 (Elite Enterprises, Inc.) and 1284 (Creative

Coatings, Inc.), respectively. These requests were pursuant to Section 3007 of the Resource Conservation and Recovery Act ("RCRA").

**ANSWER:** The referenced documents speak for themselves. The remainder of this paragraph sets forth legal conclusions for which no answer is required.

67. On October 25, 2005, Richard Lain, as CFO of Elite Enterprises, Inc. and on letterhead with the Elite Enterprises, Inc.'s name on it submitted a response for both Elite Enterprises, Inc. and Creative Coatings, Inc.

**ANSWER:** The referenced document speaks for itself. As these allegations are not directed toward Answering Respondents, Answering Respondents make no response. However, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

68. On June 22, 2005, EPA inspected Suite 1284. During the inspection EPA observed operations at Suite 1284 and talked with the Production and General Managers of Creative Coatings, Inc.

**ANSWER:** Answering Respondents deny that the EPA inspector talked with Production and General Managers of Creative Coatings and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

69. The Production and/or General Manager informed EPA's inspector that Creative Coatings, Inc. started operating and generating hazardous waste at Suite 1284 at the beginning of 2004.

**ANSWER:** Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

70. On June 22, 2005, Creative Coatings, Inc. was operating a paint shop at Suite 1284. It was painting metal and plastic parts. Spent solvents and paint sludges were being generated from the cleaning of paint guns.

**ANSWER:** Answering Respondents deny that Creative Coatings was operating a paint shop at Suite 1284 on June 22, 2005. As the remaining allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

71. On June 22, 2005, parts were hanging from an automated conveyor in Overhead Line 1. Near Overhead Line 2 there was a 5-gallon container of waste solvent. It was labeled and closed.

**ANSWER:** As the allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

72. On June 22, 2005, there was a storage area for paint that was used in the production process ("Paint Product Storage Area"). There were empty product containers in this area.

**ANSWER:** As the allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

73. On June 22, 2005, there were two separate areas where wastes from the production process were stored. Storage Room #1 was adjacent to the Paint Product Storage Area. Storage Room #2 was adjacent to Storage Room #1.

**ANSWER:** As the allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

74. On June 22, 2005, there were two drums and five 5-gallon buckets located nearby in Storage Room #1. The drums had accumulation start dates of June 9 and 22, 2005. Both drums had funnels protruding from their lids and were labeled hazardous waste.

**ANSWER:** As the allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

75. The buckets in Storage Room #1 were not closed. They were not labeled. Used paint filters were in one bucket and a grey sludge materials was in three of the buckets. An employee of Creative Coatings, Inc. explained to the EPA inspector that the four buckets contained solvent waste from the purging of paint lines that would be emptied into the 55 gallon drums.

**ANSWER:** As the allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents deny EPA talked to an employee of Creative Coatings during the June 22, 2005 inspection and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

76. There were seventeen 55-gallon drums located in Storage Room #2. Sixteen of the drums were labeled "hazardous waste." One of the drums was labeled "used oil." The drums were tightly packed and it was difficult to see their labels.

**ANSWER:** As the allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

77. Four of the hazardous waste labeled drums had accumulation start dates of March 2, 18, 22 and 24, 2005. The labels also identified the wastes with hazardous waste codes F003, F005,

and D001 (characteristic for ignitability), D007, D008 and D035 (characteristic – methyl ethyl ketone).

**ANSWER:** As the allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

78. The name Elite Enterprises, Inc. was pre-typed on the labels of all the hazardous waste drums located in Storage Rooms #1 and #2.

**ANSWER:** As the allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

79. The Production and/or General Manager of Creative Coatings, Inc. informed EPA's inspector that hazardous waste was picked up from Suite 1284 by the same waste hauler and at the same time that hazardous waste was picked up from Elite Enterprise, Inc.'s operations at Suite 1158.

**ANSWER:** As the allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents deny EPA talked to a Production and/or General Manager of Creative Coatings during the June 22, 2005 inspection and lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

80. During the June 22, 2005, inspection hazardous waste manifests, training records, inspection logs and contingency plans were not present at Suite 1284. These documents and records were located at Elite Enterprises, Inc.'s facility located at Suite 1158.

**ANSWER:** As the allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

81. The EPA inspector reviewed the hazardous waste manifests for calendar year 2003-2005 that were available at Elite Enterprises, Inc. All of the manifests were completed with the generator identified as Elite Enterprises, Inc. The address was identified as 2701 Coliseum Boulevard, Fort Wayne, Indiana. No suite number was provided.

**ANSWER:** As the allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.



82. EPA Hazardous Waste Identification Number IND985102607 was listed on all of the manifests. This is the EPA Hazardous Waste Identification Number for Elite Enterprises, Inc. at Suite 1158. There were no manifests identifying wastes generated at Suite 1284.

**ANSWER:** As the allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

83. The EPA inspector reviewed the inspection logs for Elite Enterprise, Inc. and Creative Coatings, Inc. The same form was used for both companies. Different employees completed the forms.

**ANSWER:** As the allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents deny that the EPA inspector reviewed inspection logs for Creative Coatings during the June 22, 2005 inspection and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

84. Inspection logs for Elite Enterprises, Inc. at Suite 1158 were available for the period December 27, 2004 – March 1, 2005. Inspection logs for Creative Coatings, Inc. at Suite 1284 were available only for the period March 21, 2005 – June 11, 2005.

**ANSWER:** As the allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents deny that the EPA inspector reviewed inspection logs for Creative Coatings during the June 22, 2005 inspection and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

85. The EPA inspector reviewed the employees training records. Elite Enterprises, Inc. and Creative Coatings, Inc. used the same form to document employee training and the job description of the hazardous waste positions.

**ANSWER:** As the allegations are not directed toward Answering Respondents, Answering Respondents make no response. To the extent an answer is required, Answering Respondents deny that the EPA inspector reviewed employee training records for Creative Coatings during the June 22, 2005 inspection and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

86. Operations at Suite 1284 do not qualify for interim status since Creative Coatings was not existence in 1980.

**ANSWER:** The allegations of this paragraph set forth legal conclusions for which no answer is required, and therefore deny same.

87. Respondents do not have a permit with EPA or IDEM for the storage of hazardous waste at Suite 1284.

**ANSWER:** Answering Respondents make no response to the allegations not directed toward Answering Respondents. CLC denies operating at Suite 1284 at the time of the inspection. The remaining allegations of this paragraph set forth legal conclusions for which no answer is required, and therefore deny same.

88. Elite Enterprises, Inc., Creative Coatings, Inc. and Creative Liquid Coatings, Inc. were the same company operating under the name Elite Enterprises, Inc. from 1994 to 2005 and the name Creative Liquid Coatings, Inc. since 2005.

**ANSWER:** Answering Respondents deny the allegations of this paragraph.

89. On September 3, 1999, IDEM's Office of Air Management (OAM) issued to Elite Enterprises, Inc. a Part 70 Operating Permit. The permit included air emission limitation from painting operations located at Suite 1284.

**ANSWER:** The referenced document speaks for itself. Further, Answering Respondents make no response to the allegations not directed toward Answering Respondents, and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

90. On January 23, 2004, IDEM, Office of Air Quality (OAQ) issued a Part 70 Operating Permit which included air emission limitations for painting operations.

**ANSWER:** The referenced document speaks for itself.

91. On January 27, 2004, Richard Lain, as Chief Financial Officer (CFO) for Elite Enterprises, Inc. and Creative Coatings, Inc., requested a modification to the Part 70 Operating Permit to include air emissions from painting operations at Suite 1284 and 1158. The request was on stationery with the name Elite Enterprises, Inc. and Creative Coatings, Inc. and the address Suite 1158.

**ANSWER:** Answering Respondents deny the allegations of this paragraph.

92. On November 15, 2004, Richard Lain, as CFO of Elite Enterprises, Inc. submitted to IDEM, OAQ an "Initial Notification, NESHAP Applicability, Elite Enterprises, Inc. (NESHAP Notification)." In the NESHAP Notification Elite Enterprises, Inc. identified the facility as including paint booths 1-4 at Suite 1158, the overhead and floor conveyor lines at Suite 1284 and the dual use wet paint booths at Suite 1206.

**ANSWER:** Answering Respondents make no response to the allegations not directed toward Answering Respondents. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

93. Prior to April 2005, Elite Enterprises, Inc. submitted to IDEM, OAQ a request to modify its Part 70 Operating Permit seeking a consolidating plant-wide annual VOC limit for operations at Suite 1158 and 1284.

**ANSWER:** Answering Respondents make no response to the allegations not directed toward Answering Respondents. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

94. On January 13, July 12 and October 14, 2005, Richard Lain, as CFO of Elite Enterprises, Inc. submitted to IDEM, OAQ the “Quarterly Compliance Monitoring Reports” for the source it identified as Elite Enterprises, Inc. The Quarterly Compliance Monitoring Reports included emissions from Suite 1158 and the overhead and floor lines at Suite 1284.

**ANSWER:** Answering Respondents make no response to the allegations not directed toward Answering Respondents. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

95. Elite Enterprises, Inc. reported “VOC usage” from October-December 2004 and July-September 2005 at Suite 1158.

**ANSWER:** Answering Respondents make no response to the allegations not directed toward Answering Respondents. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

96. Elite Enterprises, Inc. reported “VOC usage” at Suite 1284 from November-December 2004 and July-September 2005.

**ANSWER:** Answering Respondents make no response to the allegations not directed toward Answering Respondents. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

97. On May 16, July 20 and August 12, 2005, Richard Lain as CFO of Elite Enterprises, Inc. submitted to IDEM, OAQ “Notice of Excess Air Emissions, Elite Enterprises.” The Notice was on stationery with the names Elite Enterprises, Inc. and Creative Coatings, Inc. located at Suite 1284 and 1158.

**ANSWER:** The referenced documents speak for themselves. Answering Respondents deny that CLC operated at Suite 1284 at any time relevant to the EPA inspection.

98. The Notice of Excess Air Emissions identified the plant as consisting of operations at Suites 1158 and Suite 1284.

**ANSWER:** The referenced documents speak for themselves. Answering Respondents deny that CLC operated at Suite 1284 at any time relevant to the EPA inspection.

99. The Notice of Excess Air Emissions reported “VOC usage” from Suite 1158 from January of 2003 and from Suite 1284 from November 2004.

**ANSWER:** The referenced documents speak for themselves. Answering Respondents deny that CLC operated at Suite 1284 at any time relevant to the EPA inspection.

100. On March 17, 2006, Richard Lain, as CFO of Elite Enterprises, Inc. notified IDEM, OAQ that Suite 1158 operations were shut down and requested that the Suite 1158 emission limits be assigned to the Suite 1284 operations. He also requested that all company names be switched to Elite Enterprises, Inc.

**ANSWER:** The referenced document speaks for itself. Answering Respondents make no response to the allegations not directed toward Answering Respondents. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

101. On April 11, 2006, Richard Lain, as CFO of Creative Liquid Coatings, Inc. submitted an “application for an air permit revision requesting simplification of the Building 1/Building 2 existing air permit structure...” In the application he reported that Creative Liquid Coatings, Inc. had recently operated under the name Elite Enterprises, Inc.

**ANSWER:** Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

102. On April 19, 2006, Creative Liquid Coatings, Inc. submitted to IDEM, OAQ a Notice of Excess Air Emissions stating “Creative Liquid Coatings (formerly Elite Enterprises) provides custom painting services...” The cover letter was on stationery identifying Creative Liquid Coatings at Suite 1284.

**ANSWER:** The referenced document speaks for itself. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

103. On June 6, 2006, Randall Geist as President of Elite Enterprises, Inc. submitted to IDEM, OAQ an “Annual Compliance Certification Letter January 1, 2005 through October 13, 2005.” The Certification covered operations at Suite 1158 and 1284 and was on letterhead with the names Elite Enterprises/Creative Liquid Coatings, Inc.

**ANSWER:** The referenced document speaks for itself. To the extent an answer is required, Answering Respondents admit that Geist’s signature appears on the referenced document and lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

104. On September 28, 2006, Creative Liquid Coatings submitted to IDEM, OAQ a letter indicating possible reactivation of operations at Suite 1158 and requesting deletion of individual source VOC emission limitations for Suite 1284 with consolidation of those emissions under the VOC emission limitations for Suite 1158.

**ANSWER:** Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

105. On September 28, 2007, Randall Geist, as President of Creative Liquid Coatings submitted to IDEM, OAQ an "Air Permit Application to Restore Prior Terms and Conditions" for VOC emissions at Suite 1158. In this permit application Creative Liquid Coatings reported that the legal name of the company was Elite Enterprises from 1994 to 2005 and Creative Liquid Coatings, Inc. since 2005.

**ANSWER:** The referenced documents speak for themselves. Answering Respondents deny that CLC operated at Suite 1284 at any time relevant to the EPA inspection.

106. Randall Geist was Guarantor on a lease dated June 16, 2003, between Elite Enterprises, Inc. and Wayne Coliseum for Suite 1284.

**ANSWER:** The referenced document speaks for itself. CLC makes no response to the allegations not directed toward CLC.

107. Randall Geist, as the authorized representative of Creative Coatings, Inc. on January 3, 2004, entered into an equipment sales and property lease agreement ("Sales Agreement") with Elite Enterprises, Inc. for Suite 1284. Creative Coatings, Inc. subleased Suite 1284 to Elite Enterprises, Inc. from January 3, 2003 to December 31, 2004. Creative Coatings, Inc. purchased Elite Enterprises, Inc.'s paint and related equipment located at Suite 1284.

**ANSWER:** The referenced document speaks for itself. Answering Respondents admit that CLC bought from and leased back to Elite certain equipment and deny that Elite Enterprises, Inc. subleased Suite 1284 only until December 31, 2004. Answering Respondents deny the remaining allegations of this paragraph.

108. Randall Geist, as Chairman of Creative Coatings, Inc., on August 1, 2004, signed a lease agreement with Wayne Coliseum for Suite 1284.

**ANSWER:** The referenced document speaks for itself.

109. Randall Geist as Chairman of Creative Coatings, Inc. on December 1, 2004, signed a lease agreement as Guarantor for Suite 1284. He also signed the lease agreement as Chairman of Elite Enterprises as the Lessee. He signed subsequent amendments as President of Elite Enterprises, Inc. on August 10, 2005 and August 1, 2006.

**ANSWER:** Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

110. On October 16, 2007, Wayne Coliseum sent a letter to Randall Geist, President, Creative Liquid Coatings, Inc. regarding compliance with environmental conditions of the lease agreement. The letter was based on the site walk through conducted by their environmental consultant SESTECH Environmental, LLC (SESTECH). SESTECH identified environmental issues including: drum or raw and spent material in an overhead door receiving area with storm drains nearby; possible drainage of waste water into a storm drain; and venting of paint particulate emissions.

**ANSWER:** Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

111. On October 23, 2007, Randall Geist met with representatives of SESTECH to resolve the environmental compliance issues identified in the preceding paragraph and Creative Liquid Coatings, Inc.'s commitment to correct them.

**ANSWER:** Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

112. Since approximately 2002, representatives of Wayne Coliseum have routinely dealt with Randall Geist to correct problems that occurred at either Elite Enterprises, Inc. or Creative Liquid Coatings, Inc.

**ANSWER:** Answering Respondents deny the allegations of this paragraph.

113. On or about March 23, 2006, Wayne Coliseum, sent a letter to Elite Enterprises regarding its compliance with environmental obligations under the lease for Suite 1158. The environmental concerns that were identified included removal of drums and hazardous waste manifests at Suite 1158; sampling of drains in the first floor drum storage area; and possible venting of painting and spraying activities to the atmosphere.

**ANSWER:** Answering Respondents make no response to the allegations not directed toward Answering Respondents. To the extent an answer is required, Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

114. Randall Geist as President of Elite Enterprises, Inc. on April 4, 2006, submitted Wayne Coliseum's plans for "cleanup of the collection pit and drains in the complex."

**ANSWER:** Geist lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph. CLC makes no response to the allegations not directed toward CLC.

115. Randall Geist, as President of Creative Liquid Coatings, on January 31, 2007, informed IDEM that Creative Coatings, Inc. signed the leases and made the financial commitment to build new equipment for businesses it operated within International Park. He stated that Creative Coatings, Inc. obtained air permits for both the existing and new equipment at Suite 1284 as Creative Coatings, Inc. Mr. Geist also stated that Creative Coatings, Inc. has ownership and is operating all of the assets at Suite 1284.

**ANSWER:** Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

116. On June 1, 2008, Stephen Geist as Operations Manager of Creative Liquid Coatings, Inc. submitted a letter to Derrick Samaranski of EPA. Mr. Geist stated that Creative Liquid Coatings, Inc. was the same as Creative Coatings, Inc. He stated that Creative Coatings, Inc. was not to have any involvement in the business operations of Elite Enterprise, Inc. at Suite 1284. He

asserted that the waste EPA observed on June 22, 2005, at Suite 1284 was generated by Elite Enterprises, Inc.

**ANSWER:** The referenced document speaks for itself.

### **Count I**

117. Paragraphs 1-116 are incorporated by reference as if fully presented in this Count I. Respondents are *persons* as defined by 329 IAC § 3.1-4-20, 40 C.F.R. § 260.10.

**ANSWER:** Answering Respondents incorporate their responses to the allegations of paragraphs 1 through 116 as if fully presented in Count I. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

118. Under 329 IAC §§ 3.1-1-7 and 13-1, 40 C.F.R. § 270.1(c) owners and operators of hazardous waste management units are required to have a permit for the storage of hazardous waste.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

119. Under 329 IAC § 3.1-1-7, 4-1, and 6-1, a *solid waste* is defined as any discarded material that is not excluded by 40 C.F.R. § 261.4(a) or that is not excluded pursuant to 40 C.F.R. §§ 260.30 and 260.31. *See also*, 40 C.F.R. § 261.2.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

120. On June 22, 2005, Storage Area #1 and #2 at Suite 1284 had 55-gallon drums, and 5-gallon buckets that contained wastes from painting operations. The contents of the drums and buckets were solid wastes as defined by 329 IAC §§ 3.1-1-7, 4-1 and 6-1, 40 C.F.R. § 261.2.

**ANSWER:** Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

121. On June 22, 2005, some of the drums in Storage Area #1 and #2 were labeled paint solvent and catalyzed paint. Some of the buckets contained residue from the cleaning of paint equipment with solvents. Some of the drums were labeled with hazardous waste codes F003, F005, D001, D007, D008, and D035. The contents of the drums and buckets were hazardous wastes as defined by 329 IAC § 3.1-1-7, 4-1 and 6-1, 40 C.F.R. § 261.3, and meeting the criteria in 40 C.F.R. § 261.21, 24 and 30.

**ANSWER:** Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph. The remaining allegations of this paragraph

set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

122. On June 22, 2006, some of the drums in Storage Areas #1 and/or #2 were labeled as having an accumulation start date in excess of 90 days. Other drums were stacked and stored in a manner which suggested that they had been in storage for a while. All drums were shipped off-site for subsequent disposal or treatment. Consequently, the drums in Storage Areas #1 and #2 were in storage as that term is defined in 329 IAC §§ 3.1-1-7 and 4-1, 40 C.F.R. § 260.10.

**ANSWER:** Answering Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

123. Storage Areas #1 and #2 were contiguous and part of Creative Liquid Coatings, Inc. (Suite 1284) and stored hazardous waste in drums and buckets. Storage Areas #1 and #2 were hazardous waste management units as defined by 329 IAC §§ 3.1-1-7 and 4-1, 42 C.F.R. § 260.10. Creative Liquid Coatings, Inc.'s Suite 1284 was a hazardous waste storage facility with two hazardous waste storage units as defined by 329 IAC §§ 3.1-1-7 and 4-1-, 40 C.F.R. § 260.10.

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

124. On June 22, 2005, Respondents owned or operated the equipment and hazardous wastes in Suite 1284 and Storage Areas #1 and #2. Respondents were responsible for the overall operation of Suite 1284 and owned the equipment located therein. Respondents were owners or operators as those terms are defined in 329 IAC §§ 3.1-1-7 and 4-1, 40 C.F.R. § 260.10.

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

125. Respondents did not have a permit or interim status to operate Storage Areas #1 and #2 as hazardous waste management units. Consequently, Respondents were in violation of 329 IAC §§ 3.1-1-7 and 13-1, 40 C.F.R. § 270.1(c).

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.



126. 329 IAC §§ 3.1-7 and 13-1, 40 C.F.R. § 262.34 exempts generators of hazardous waste from the permit requirements if certain conditions are met.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

127. Respondents were generators of hazardous waste at Suite 1284 at various times from some time in 2003 or 2004 to the present as that term is defined in 329 IAC §§ 3.1-1-7 and 4-1, 40 C.F.R. § 260.10.

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

128. 329 IAC §§ 3.1-1-7 and 7-1, 40 C.F.R. § 262.34(a) and (b) limits the on-site storage of hazardous waste to 90 days. During the June 22, 2005, inspection there were at least four 55-gallon drums of hazardous waste that were stored on-site for greater than 90 days. Consequently, the Respondents were in violation of 329 IAC §§ 3.1-1-7 and 7-1; 40 C.F.R. § 262.34(a) and (b) and therefore did not qualify for a permit exemption.

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

129. 329 IAC §§ 3.1-1-7 and 7-1, 40 C.F.R. § 262.34(a)(3) requires a generator storing hazardous waste in containers to label those containers with the words, "Hazardous Waste." On June 22, 2005, Respondents' container storage area had three buckets of hazardous solvent and paint waste that were not labeled with the words, "Hazardous Waste." Consequently, Respondents failed to meet the conditions of 329 IAC §§ 3.1-1-7 and 7-1, 40 C.F.R. § 262.34(a)(3) and therefore did not qualify for a permit exemption.

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

130. 329 IAC §§ 3.1-1-7 and 7-1, 40 C.F.R. § 262.34(a)(2), requires a generator to label containers with accumulation start date and make that date visible for inspection. On June 22, 2005, Respondents' container storage area had 3 buckets of hazardous solvent and paint waste that were not labeled with accumulation start dates. Respondents also had 16 drums of hazardous waste tightly arranged in three rows such that the accumulation start dates were difficult to see. Consequently, Respondents failed to meet the conditions of 329 IAC §§ 3.1-1-7 and 7-1, 40 C.F.R. § 262.34(a)(2) and therefore did not qualify for a permit exemption.

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

131. 329 IAC §§ 3.1-1-7, 7-1 and 10-1, 40 C.F.R. §§ 262.34(a)(4) and 265.51 requires a generator that stores hazardous waste on-site to have a contingency plan. A facility which stores hazardous waste on-site must also have a contingency plan. 329 IAC §§ 3.1-1-7, 9-1 and 10-1, 40 C.F.R. §§ 264.1(b), 265.1(b) and 264.51(a), and 265.51(a). On June 22, 2005, Respondents did not have a contingency plan on-site at Suite 1284. Consequently, Respondents failed to meet the conditions of 329 IAC §§ 3.1-1-7, 7-1 and 10-1, 40 C.F.R. §§ 262.34(a)(4) and 265.51 and therefore did not qualify for a permit exemption.

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

132. 329 IAC §§ 3.1-1-7, 7-1, 9-1 and 10-1, 40 C.F.R. §§ 262.34(a)(4) and 265.51 and 265.53 require a generator that stores hazardous waste on-site to have a contingency plan. At the time of the inspection Respondents did not have a copy of the contingency plan at Suite 1284. Consequently, Respondents did not meet the requirements of 329 IAC §§ 3.1-1-7, 7-1 and 10-1, 40 C.F.R. §§ 262.34(a)(4), 265.51 and 265.53 and therefore did not qualify for a permit exemption.

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

133. The contingency plan must include the following items: 1) the address of the emergency coordinator(s); 2) a list of all emergency equipment at the facility including its location and a physical description and brief outline of each item on the list; and 3) an evacuation plan describing signals that are to be used to begin evacuation and primary and secondary evacuation routes. *See also*, 329 IAC §§ 3.1-1-7, 7-1, 9-1 and 10-1, 40 C.F.R. §§ 262.34(a)(4) and 265.52(d). Consequently, Respondents did not meet the requirements of 329 IAC §§ 3.1-1-7, 7-1 and 10-1; 40 C.F.R. 262.34(a)(4) and 265.52(d), (e) and (f) and therefore did not qualify for a permit exemption.

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

134. At the time of the inspection, Respondents' contingency plan for Suite 1284 was located at Elite Enterprises' offices located at Suite 1158. That contingency did not include the information required by the regulations cited in preceding paragraph. Respondents therefore did not meet the requirements of 329 IAC §§ 3.1-1-7, 7-1, and 10-1; 40 C.F.R. §§ 262.34(a)(4), 40 C.F.R. §§ 265.52(d), (e) and (f). Therefore, Respondents did not qualify for a permit exemption.

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

135. 329 IAC §§ 3.1-1-7, 7-1 and 10-1, 40 C.F.R. §§ 262.34(a)(1)(i) and 265.174 require a generator using containers to store hazardous waste to inspect those areas where the containers are stored at least weekly, looking for leaks and deterioration caused by corrosion or other factors. Respondents therefore failed to meet the conditions of 329 IAC §§ 3.1-1-7, 7-1 and 10-1, 40 C.F.R. §§ 262.34(a)(1)(i) and 264.174 and did not qualify for a permit exemption.

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

136. At the time of the inspection, logs for suite 1284 were available only for the period March 21, 2005 – June 11, 2005. Respondents have not demonstrated that they inspected the hazardous waste storage areas at Suite 1284 prior to March 21, 2005. Respondents therefore did not meet the conditions of 329 §§ IAC 3.1-1-7, 7-1 and 10-1, 40 C.F.R. §§ 262.34(a)(1)(i) and 265.174 and did not qualify for a permit exemption.

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

137. 329 IAC §§ 3.1-1-7, 7-1 and 10-1, 40 C.F.R. §§ 262.34(a)(4), 265.16(a), (b) and (c) require a generator of hazardous waste to provide initial and annual training for its employees with duties involving hazardous waste management that teaches them to perform their duties in a way that ensures compliance with 40 C.F.R. Part 265.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

138. 329 IAC §§ 3.1-1-7, 7-1 and 10-1, 40 C.F.R. §§ 265.16(d)(4) and (e) require a generator to document that this required training has been given to, and completed by, company personnel, and to maintain those documents for at least three years from the date that the employee last worked at the location.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

139. 329 IAC §§ 3.1-7-1, 40 C.F.R. §§ 265.16(d)(1) require a generator to maintain a document that lists the job title for each position related to hazardous waste management and the name of the person filling that position.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

140. At the time of the inspection, Respondents were unable to provide the required training documentation upon the request of the EPA inspector. Therefore, Respondents did not meet the requirements of 329 IAC 3.1-1-7, 7-1 and 10-1, 40 C.F.R. §§ 262.34(a)(4), 265.16(a), (b) and (c); (d)(1), (4) and (e); and therefore did not qualify for a permit exemption.

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

141. As alleged in paragraphs 127-139 above Respondents failed to comply with the conditions necessary for an on-site generator to qualify for an exemption from a hazardous waste storage permit under 35 IAC §§ 3.1-1-7, 7-1 and 10-1, 40 C.F.R. §§ 262.34. Respondents did not and do not have a permit for storage of hazardous waste. Consequently, Respondents did not meet the requirements of 329 IAC §§ 3.1-1-7, 7-1 and 10-1; 40 C.F.R. § 262.34(a) as alleged in paragraphs 117-140 above and did not qualify for a permit exemption. Consequently, Respondents violated 329 IAC §§ 3.1-13-1, 40 C.F.R. § 270.1(c).

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

## **Count II**

142. Paragraphs 1-116 are incorporated by reference as if fully presented in this Count II. Respondents are *persons* as defined by 329 IAC § 3.1-4-20, 40 C.F.R. § 260.10.

**ANSWER:** Answering Respondents incorporate their responses to the allegations of paragraphs 1 through 116 as if fully presented in Count II. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

143. 329 IAC §§ 3.1-1-7 and 7-1, 40 C.F.R. § 262.20(a) requires a generator of hazardous waste to properly complete the uniform hazardous waste manifest (EPA Form 8700-22) when shipping hazardous waste off-site.

**ANSWER:** The allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

144. Respondents shipped hazardous waste from Suite 1284 off-site on June 27, 2005, July 21, 2005, October 6 and 31, 2005. The Respondents used the EPA identification number for another location – Suite 1158. Respondents therefore violated 329 IAC §§ 3.1-7-1, 40 C.F.R. § 262.20(a).

**ANSWER:** Answering Respondents deny either operated at Suite 1284 at any time relevant to the EPA inspection. Answering Respondents make no response to allegations not directed toward Answering Respondents. The remaining allegations of this paragraph set forth legal conclusions to which no answer is required. Further, the referenced statutes or regulations speak for themselves.

## **II. PROPOSED CIVIL PENALTY**

**ANSWER:** This Proposed Civil Penalty section sets forth legal conclusions and procedural information, to which no response is required. To the extent a response is required, Answering Respondents state they have already set forth their substantive answers to Counts I and II above. To the extent any additional answer is required, Answering Respondents deny that EPA fairly and properly evaluated the facts and circumstances in this matter, and believe that there are bona fide issues and defenses relevant to the proposed penalty's appropriateness. Further, Answering Respondents deny the remaining allegations of this section.

## **III. COMPLIANCE ORDER**

**ANSWER:** This Compliance Order section sets forth legal conclusions and procedural information, to which no response is required. To the extent a response is required, Answering Respondents state they have already set forth their substantive answers to Counts I and II above. To the extent any additional answer is required, Answering Respondents deny they are required to comply with EPA's requested provisions unless and until Answering Respondents' rights to challenge the proposed order have been fully adjudicated and the order becomes effective and non-appealable. Further, Answering Respondents deny the remaining allegations of this section.

## **IV. OPPORTUNITY TO REQUEST A HEARING**

**ANSWER:** Answering Respondents hereby request a hearing on the complaint and its factual and legal allegations, and on the lawfulness, necessity, or appropriateness of any civil penalty, and wish to avail themselves of any and all other rights available to them. The remaining allegations of this section set forth legal conclusions and procedural information, to which no answer is required.

V. SETTLEMENT CONFERENCE

**ANSWER:** While Answering Respondents request a hearing on this matter, they have requested an informal settlement conference. Answering Respondents have contacted EPA in writing and by telephone to arrange a time for a settlement conference.

\* \* \*

**ANSWER:** To the extent Answering Respondents have not fully responded to any allegations made by EPA in this or the similar Complaint filed by EPA, Answering Respondents deny them at this time.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I certify that on the 24th day of September, 2009, service of a true and complete copy of the foregoing was made upon each party or attorney of record herein by U.S. Mail, postage prepaid:

Richard J. Clarizio  
Associate Regional Counsel  
Office of the Regional Counsel  
U.S. Environmental Protection Agency,  
Region 5  
77 West Jackson Boulevard (C-14J)  
Chicago, Illinois 60604-3590



\_\_\_\_\_  
David L. Hatchett

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