



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

September 18, 2007

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

F. Edwin Hallman, Jr., Esq.  
Decker, Hallman, Barber & Briggs  
Suite 1700  
260 Peachtree Street, N.W.  
Atlanta, GA 30303

Re: In the Matter of Intertrade Holdings, Inc.  
Docket No.: RCRA-04-2007-4010(b)

Dear Mr. Hallman:

Enclosed is a copy of the Consent Agreement and Final Order (CA/FO) that resolves the Resource Conservation and Recovery Act matter for your client, Intertrade Holdings, Inc. The CA/FO has been filed with the Regional Hearing Clerk and is effective on today's date. Please note that in accordance with Paragraph 57, the company is required to pay its first scheduled penalty payment of \$50,000 by October 15, 2007. The remaining three penalty payments of \$34,052.94 will be due annually on October 15<sup>th</sup> thereafter.

If you have any questions, please call me at 404-562-9567.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael T. Newton".

Michael T. Newton  
Associate Regional Counsel

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	)	DOCKET NO.: RCRA-04-2007-4010(b)
	)	
Intertrade Holdings, Inc.	)	
State Highway 68	)	
Copperhill, Tennessee, 37317	)	Proceeding under Section 3008(a) of
	)	the Resource Conservation and Recovery
EPA ID No.: TND 003 337 839	)	Act, 42 U.S.C. § 6928(a)
	)	
RESPONDENT.	)	
_____		

**CONSENT AGREEMENT**

**I. NATURE OF THE ACTION**

1. This is a civil administrative enforcement action ordering compliance with the requirements of Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6921 through 6939e, and the "Tennessee Hazardous Waste Management Act of 1977" (THMA), Tennessee Code Annotated (T.C.A.), 68-212-101 through 121. This action is seeking civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for alleged violations of RCRA and T.C.A. and the regulations promulgated pursuant thereto, set forth at Title 40 of the Code of Federal Regulations (40 CFR), Parts 260 through 279 and Tennessee Department of Environment and Conservation Rules (TDEC Rule) Chapter 1200-01-11.
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

RECEIVED  
EPA REGION IV  
2007 SEP 18 PM 2:08  
HEARING CLERK

## **II. THE PARTIES**

4. Complainant is the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency (EPA).
5. Respondent is Intertrade Holdings, Inc., a corporation incorporated in the State of Georgia and doing business in the State of Tennessee.

## **III. PRELIMINARY STATEMENTS**

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), on February 5, 1985, the State of Tennessee (State) received final authorization to carry out, certain portions of RCRA, including those recited herein, in lieu of the federal program. The State received authorization for Hazardous and Solid Waste Amendments (HSWA) Cluster I in October 1995, and HSWA Cluster II by July 1996.
7. Although EPA has granted the State of Tennessee authority to enforce its own hazardous waste program, EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). EPA exercises this authority in the manner set forth in the Memorandum of Agreement between EPA and the State of Tennessee.
8. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State of Tennessee before issuance of this CA/FO.
9. Respondent is a "person" as defined in TDEC Rule 1200-01-11-.01(2)(a) [40 CFR § 260.10].
10. Respondent is the "owner" and "operator" of a "facility" located at State Highway 68, Copperhill, Tennessee, 37317, as those terms are defined in TDEC Rule 1200-01-11-.01(2)(a) [40 C.F.R. § 260.10].
11. Section 3002(a) of RCRA, 42 U.S.C. § 6922(a) and T.C.A. 68-212-101, *et seq.*, authorize the regulation of facilities that generate hazardous waste. The implementing regulations for this requirement are found in TDEC Rule 1200-01-11-.03 [40 CFR Part 262].
12. Section 3005 of RCRA, 42 U.S.C. § 6925 and T.C.A. 68-212-101, *et seq.*, set forth the requirement that a facility treating, storing or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found in TDEC Rule 1200-01-11-.06 (Interim Status Facilities) [40 CFR Part 264] and TDEC Rule 1200-01-11-.05 (Permitted Facilities) [40 CFR Part 265].
13. Pursuant to Sections 3002, 3003, 3004, and 3005, 42 U.S.C. §§ 6922, 6923, 6924, and 6925 and T.C.A. 68-212-107, a streamlined, reduced regulatory scheme for certain hazardous wastes regulated under RCRA Subtitle C was created to facilitate their collection and proper management. These wastes were designated as "Universal Wastes." The regulations applicable to Universal Wastes are found in TDEC Rule 1200-01-11-.12 [40 CFR Part 273].

14. Section 3014 of RCRA, 42 U.S.C. § 6935, and T.C.A. 68-212-107, set forth the requirements for facilities that generate and manage used oil. The implementing regulations for these requirements are found in TDEC Rule 1200-01-11-.11 [40 CFR Part 279].
15. Pursuant to TDEC Rule 1200-01-11-.03(1)(b) [40 CFR § 261.2], “solid waste” is any discarded material that is not otherwise excluded by the regulations.
16. Pursuant to TDEC Rule 1200-01-11-.01(2)(a) [40 CFR § 260.10], a “generator” is defined as “any person, by site, whose act or process produces hazardous waste identified or listed in TDEC Rule 1200-01-11-.02(40 CFR Part 261) or whose act first causes a hazardous waste to be subject to regulation.”
17. Pursuant to TDEC Rule 1200-01-11-.12(1)(b) [40 CFR § 273.9], the definition of Universal Waste includes “Lamps.”
18. Pursuant to TDEC Rule 1200-01-11-.12(1)(b) [40 CFR § 273.9], the definition of “Lamp” used to specify the lamps subject to the Universal Waste Rule includes “fluorescent lamps.”
19. Pursuant to TDEC Rule 1200-01-11-.12(1)(b) [40 CFR § 273.9], a “Universal Waste Handler” means a generator of universal waste.
20. Pursuant to TDEC Rule 1200-01-11-.12(1)(b) [40 CFR § 273.9], a “Small Quantity Handler of Universal Waste” means a universal waste handler (as defined in this section) who does not accumulate 5,000 kilograms or more of universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.

#### **IV. EPA ALLEGATIONS AND DETERMINATIONS**

21. On May 10 - 12, 2005, EPA and TDEC representatives conducted a RCRA compliance evaluation inspection (2005 CEI) of Respondent’s Facility.
22. On January 23, 2006, EPA and TDEC representatives conducted a RCRA compliance evaluation inspection (January 2006 CEI) of Respondent’s Facility.
23. On October 25, 2006, EPA and TDEC representatives conducted a RCRA compliance evaluation inspection (October 2006 CEI) of Respondent’s Facility.
24. At the time of all the CEIs and continuing through the present date, Respondent did not have a permit or interim status for the treatment, storage or disposal of hazardous waste.
25. At the time of the 2005 CEI, Respondent was registered with TDEC as a large quantity generator of hazardous waste.
26. At the time of the 2005 CEI, Respondent was a small quantity handler of universal waste in that while Respondent generated universal waste, it had, at no time, accumulated 5,000

kilograms or more of universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively).

27. At the time of the 2005 CEI, Respondent had not made a waste determination for:
  - a. Fluorescent lamps stored in various locations at the Facility;
  - b. Wastes stored in the flammable cabinets in the Maintenance Courtyard;
  - c. Waste chemicals stored in the Laboratory Building and in the Sulfuric Acid Plant (No. 6);
  - d. Waste paint located in the paint building in Locomotive Maintenance area;
  - e. Drums with unknown contents stored in the Clark Compressor Room;
  - f. Totes of waste oil/DPO outside the Organics Plant; and,
  
28. At the time of the January 2006 CEI, Respondent had not made a waste determination for:
  - a. Wastes stored in the flammable cabinets in the Maintenance Courtyard
  - b. Lamps located in the Drum Storage Area and in the Bone Yard;
  - c. Waste paint located in the paint building in Locomotive Maintenance area;
  - d. Waste vanadium pentoxide granules in the Powerhouse;
  
29. At the time of the October 2006 CEI, Respondent had not made a waste determination for drums of waste located in the Lumber Storage Area.
  
30. At the time of the 2005 CEI and/or as of July 2007, Respondent had stored hazardous waste for longer than 90 days. Such waste included the following wastes that were at the Facility during the 2005 CEI and remained in storage at the Facility until at least the dates indicated below:
  - wastes stored in the flammable cabinets until May 2006;
  - wastes stored in Clark Compressor Room until May 2006;
  - waste chemicals stored in the Sulfuric Acid Plant (No. 6) until June 2006; and,
  - totes of waste oil/DPO until July 2007.

In addition, the waste vanadium pentoxide noted during the January 2006 CEI was stored for longer than 90 days.

31. At the time of the 2005 CEI, there was a 55-gallon drum located near the Organics Plant that had been used for satellite accumulation but was not located near the point of waste generation.
  
32. During the 2005 CEI, Respondent did not have available for review a copy of its hazardous waste manifests, dating from May 2002 – May 2005. There were also manifests missing during the January 2006 CEI.
  
33. During the 2005 CEI, Respondent had a copy of two manifests that were missing the signature of the designated facility. More than 35 days had passed from the date the waste was accepted by the initial transporter. Respondent had failed to contact the transporter

and/or the designated facility to determine the status of the hazardous waste listed on the manifests. During the January 2006 CEI, the situation for the prior noted manifests remained the same. In addition, there were four more manifests that were older than 35 days, which did not have the signature of the designated facility. As of the January 2006 CEI date, Respondent had failed to contact the transporter and/or the designated facility to determine the status of the hazardous waste listed on the six manifests.

34. During the 2005 CEI, there was evidence of chemical spills in the Laboratory Building, Sulfuric Acid Plant (No.6), Liquid Sulfuric Acid Plant, and in the Clark Compressor Room. In addition, there was evidence of chemical spills to the soil in the Maintenance Area, the Drum Storage Area, and adjacent to the Organics Plant.
35. During the 2005 CEI, Respondent could not provide personnel training documentation. In addition, Respondent had not attempted to make arrangements with local authorities. Further, Respondent did not have a contingency plan.
36. At the time of the 2005 CEI, there were waste fluorescent lamps at various areas of the Facility, including the Maintenance Warehouse. Respondent had failed to place the waste fluorescent lamps in containers. In addition, Respondent had failed to label or mark the waste fluorescent lamps stored in the Maintenance Warehouse with one of the following phrases: "Universal Waste – Lamp(s)," or "Waste Lamps(s)," or "Used Lamp(s)." Further, Respondent had failed to label or mark such waste lamps with the earliest date that any of the lamps became a waste nor did Respondent have an alternate system to determine when the lamps became waste.
37. During the 2005 CEI, there were leaking containers of used oil in the Automotive Garage and other areas. In addition, Respondent had failed to label containers of used oil in the Automotive Garage and other areas. Further, Respondent had failed to clean up used oil releases in the Automotive Garage, the Steam Cleaning Area, the Sulfuric Acid Plant (No. 6), and the Liquid Sulfuric Acid Plant. During the January 2006 CEI, had failed to clean up used oil releases in the Automotive Garage, the Steam Cleaning Area, and the Drum Storage Area.
38. Pursuant to TDEC Rule 1200-01-11-.03(1)(b) [40 CFR § 262.11], a person that generates a solid waste must determine if that waste is a hazardous waste. EPA alleges that Respondent failed to make a hazardous waste determination on the waste listed in Paragraphs 27, 28 and 29. Therefore, EPA alleges Respondent violated TDEC Rule 1200-01-11-.03(1)(b) [40 CFR § 262.11].
39. Pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, and T.C.A. § 68-212-108(a), the owner or operator of a facility may not treat, store, or dispose of hazardous waste without interim status or a permit. TDEC Rule 1200-1-11-.03(4)(e) [40 CFR § 262.34(a)] provides a 90 day period of exemption from the permit or interim status for large quantity generators provided that certain other requirements are met. EPA alleges Respondent had stored hazardous waste for greater than 90 days without a permit or interim status. Therefore, EPA alleges Respondent violated Section 3005 of RCRA, 42 U.S.C. § 6925, and T.C.A. § 68-212-108(a).

40. Pursuant to TDEC Rule 1200-1-11-.03(4)(e)5.(i) [40 CFR § 262.34(c)(1)], 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. EPA alleges that at the time of the 2005 CEI Respondent had failed to manage one 55-gallon container of hazardous waste, which was satellite accumulated, at or near the point of generation where the waste was initially accumulated. Therefore, EPA alleges Respondent violated TDEC Rule 1200-01-1103(4)(e)5.(i) [40 CFR § 262.34(c)(1)].
41. Pursuant to TDEC Rule 1200-01-11-.03(5)(a)1. [40 CFR § 262.40(a)], the generator of hazardous waste is required to keep a copy of its manifests for shipments of hazardous waste. EPA alleges Respondent failed to have a copy of all its manifests from May 2002 until May 2005 available for review at the 2005 CEI and January 2006 CEI. Therefore, EPA alleges Respondent violated TDEC Rule 1200-01-11-.03(5)(a)1 [40 CFR § 262.40(a)].
42. Pursuant to TDEC Rule 1200-01-11-.03(5)(c)1.(i), [40 CFR § 262.42(a)(1)], a generator of greater than 1,000 kilograms of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter an/or the owner or operator of the designated facility to determine the status of the hazardous waste. EPA alleges Respondent had six manifests during the 2005 CEI and the January 2006 CEI older than 35 days that were missing the signature of the designated facility and Respondent had not contacted the transporter and/or the designated facility to determine the status of the hazardous waste listed on the manifest. Therefore, EPA alleges Respondent violated TDEC Rule 1200-01-11-.03(5)(c)1.(i) [40 CFR § 262.42(a)].
43. Pursuant to TDEC Rule 1200-1-11-.05(3)(b) [40 CFR § 265.31], which is incorporated by reference in TDEC Rule 1200-1-11-.03(4)(e)2.(iv) [40 CFR § 262.34(a)(4)] facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. EPA alleges that at the time of the 2005 CEI Respondent failed to properly maintain and operate the Facility in that there were chemical spills to the soil in the Maintenance Area, the Drum Storage Area, and adjacent to the Organics Plant. Therefore, EPA alleges Respondent violated TDEC Rule 1200-1-11-.05(3)(b) [40 CFR § 265.31].
44. Pursuant to TDEC Rule 1200-1-11-.05(2)(g)4.(iv) [40 CFR § 265.16(d)(4)], which is incorporated by reference in TDEC Rule 1200-1-11-.03(4)(e)2.(iv) [40 CFR § 262.34(a)(4)], the owner or operator of a facility must keep records documenting that facility personnel have received required hazardous waste training. EPA alleges that at the time of the 2005 CEI Respondent failed to have records of personnel training. Therefore, EPA alleges Respondent violated TDEC Rule 1200-1-11-.05(2)(g)4.(iv) [40 CFR § 265.16(d)(4)].

45. Pursuant to TDEC Rule 1200-1-11-.05(3)(h)1. [40 CFR § 265.37], which is incorporated by reference in TDEC Rule 1200-1-11-.03(4)(e)2.(iv) [40 CFR § 262.34(a)(4)], the owner or operator of a facility must attempt to make arrangements with local authorities. EPA alleges that at the time of the 2005 CEI Respondent had failed to attempt to make arrangements with local authorities. Therefore, EPA alleges Respondent violated TDEC Rule 1200-1-11-.05(3)(h)1. [40 CFR § 265.37].
46. Pursuant to TDEC Rule 1200-1-11-.05(4)(b)1. [40 CFR § 265.51], which is incorporated by reference in TDEC Rule 1200-1-11-.03(4)(e)2.(iv) [40 CFR § 262.34(a)(4)], the owner or operator of a facility must have a contingency plan for his facility. EPA alleges that at the time of the 2005 CEI Respondent failed to have a contingency plan. Therefore, EPA alleges Respondent violated TDEC Rule 1200-1-11-.05(4)(b)1. [40 CFR § 265.51].
47. Pursuant to TDEC Rule 1200-01-11-.12(2)(d)4. [40 CFR § 273.13], (e)5. [40 CFR § 273.14] and (f)3. [40 CFR § 273.15], a small quantity handler of universal waste must place lamps in containers or packages that are structurally sound; mark or label each lamp or the container or package in which such lamps are contained with one of the following phrases: "Universal Waste – Lamp(s)," or "Waste Lamps(s)," or "Used Lamp(s)," and, must mark the containers with the earliest date that any universal waste in the container became a waste or was received. EPA alleges that at the time of the 2005 CEI Respondent had failed to place universal waste lamps in containers, failed to mark or label the lamps or containers with one of the following phrases: "Universal Waste – Lamp(s)," or "Waste Lamps(s)," or "Used Lamp(s)," and had failed to date the lamps or containers. Therefore, EPA alleges Respondent violated TDEC Rule § 1200-01-11-.12(2)(d)(4) [40 CFR § 273.13], (e)5. [40 CFR § 273.14] and (f)3. [40 CFR § 273.15].
48. Pursuant to TDEC Rule 1200-1-11-.11(3)(c)2.(ii), 3.(i) and 4.(iii) [40 CFR § 279.22], containers used to store used oil must be not leaking, i.e., no visible leaks, must be labeled or marked clearly with the words "Used Oil," and any releases must be cleaned up. EPA alleges that at the time of the 2005 CEI Respondent had containers storing used oil with visible leaks, that the containers were not be marked with the words "Used Oil," and that there were releases, which Respondent had not cleaned up. EPA also alleges at the time of the January 2006 CEI that there were releases, which Respondent had not cleaned up. Therefore, EPA alleges Respondent violated TDEC Rule 1200-01-11-.11(3)(c)2.(ii), 3.(i) and 4.(iii) [40 CFR § 279.22].

## **V. TERMS OF AGREEMENT**

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

49. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out above pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
50. The Respondent neither admits nor denies EPA's factual allegations and determinations as set out in Section IV herein.



51. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
52. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act.
53. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this CA/FO.
54. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
55. The parties agree that compliance with the terms of this CA/FO shall resolve the alleged violations of RCRA referred to in this CA/FO.
56. Each party will pay its own costs and attorney's fees.

A. PAYMENT OF CIVIL PENALTY

57. Respondent consents to the payment of a civil penalty in the amount of One Hundred Forty-Four Thousand Five Hundred Dollars (\$144,500), plus interest of Seven Thousand Six Hundred Fifty-Eight Dollars and Ninety-Four Cents (\$7,658.94) which is to be paid in accordance with the following schedule:
  - \$50,000.00                      on or before October 15, 2007.
  - \$34,052.94                      on or before October 15, 2008.
  - \$34,052.94                      on or before October 15, 2009.
  - \$34,052.94                      on or before October 15, 2010.

If Respondent fails to make a scheduled payment for 30 days after the due date, all subsequent payments become immediately due and payable on the 31<sup>st</sup> day from such due date.

58. Each payment shall be made by cashier's check, certified check, or other payment acceptable to EPA, payable to: **Treasurer, United States of America**. The facility name and the docket number for this matter shall be referenced on the face of the check and in a cover letter transmitting the check. Payment shall be tendered, if by U.S. Postal Service, to:

US Environmental Protection Agency  
 Fines and Penalties  
 Cincinnati Finance Center  
 PO Box 979077  
 St. Louis, MO 63197-9000

or if by commercial express delivery service to:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

Contact: Natalie Pearson  
314-418-4087

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

Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

and to:

Doug McCurry, Chief  
North Enforcement & Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

59. If Respondent fails to remit the civil penalty as agreed to herein, EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on each of the civil penalty payments if not paid in accordance with the schedule in Paragraph 57 of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

- (a) Interest. Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
- (b) Monthly Handling Charge. Respondent must pay a late payment handling charge of \$15.00 on any late payment, with an additional charge of \$15.00 for each subsequent 30 calendar day period over which an unpaid balance remains.
- (c) Non-Payment Penalty. On any portion of a civil penalty more than 90 calendar days past due, Respondent must pay a non-payment penalty of six percent per annum, which will accrue from the date the penalty payment became due and is

not paid. This non-payment is in addition to charges, which accrue or may accrue under subparagraphs (a) and (b).

B. INJUNCTIVE RELIEF

60. Respondent shall submit within 30 days of the effective date of this CA/FO, a report listing all hazardous waste present at the Facility as of August 1, 2007, that had been stored for greater than 90 days, including any of the totes of organics/DPO material that had tested as characteristic hazardous waste for ignitability and/or toxicity. If no such waste was present at the Facility as of that date, Respondent shall so report and provide its hazardous waste manifest(s) for the prior four months with the report. For any such waste that was present as of the August 1, 2007, date, but that is no longer present at the Facility, Respondent shall submit with the report the hazardous waste manifest(s) for the shipment(s) of such waste.
61. For any waste identified in the Paragraph 60 report that is still located at the facility, Respondent shall have 60 days from the effective date of this CA/FO to ship all such waste to a permitted hazardous waste treatment, storage or disposal facility.
62. Within 75 days from the effective date of this CA/FO, Respondent shall submit any additional manifest(s) if shipment(s) were made pursuant to Paragraph 61.
63. Within 75 days from the effective date of this CA/FO, Respondent shall provide EPA a statement signed by a corporate officer, as follows:

I hereby certify that as of \_\_\_\_\_ [the date 60 days from the effective date of this CA/FO] there were no hazardous wastes that had been stored for greater than 90 days at the Intertrade facility. This statement is made based upon my review of all relevant information and documents and my inquiry of all appropriate facility personnel. To the best of my knowledge and belief, this statement is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

### C. SUBMISSIONS

64. The information required to be submitted under this CA/FO shall be mailed to:

Doug McCurry, Chief  
North Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, SW  
Atlanta, GA 30303-8960

and to:

Mike Apple, Director  
Division of Solid and Hazardous Waste Management  
5th Floor, L&C Tower  
401 Church Street  
Nashville, TN 37243-1535

### VI. RESERVATION OF RIGHTS

65. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health or the environment.
66. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
67. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.
68. This CA/FO may be amended or modified only by written agreement executed by both the Complainant and Respondent.

### VII. OTHER APPLICABLE LAWS

69. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations.

Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

### **VIII. PARTIES BOUND**

70. This CA/FO shall be binding upon Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents and all persons, including independent contractors, contractors and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
71. No change in ownership, partnership, corporate or legal status relating to the facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
72. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

### **IX. SERVICE OF DOCUMENTS**

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

Michael T. Newton,  
Associate Regional Counsel  
U.S. EPA – Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960  
404-562-9567

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

F. Edwin Hallman, Jr., Esquire  
Decker, Hallman, Barber & Briggs  
Suite 1700  
260 Peachtree Street, N.W.  
Atlanta, GA 30303  
404-588-2525

**X. SEVERABILITY**

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

**XI. EFFECTIVE DATE**

76. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

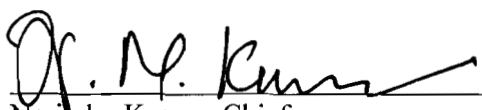
**AGREED AND CONSENTED TO:**

**Intertrade Holdings, Inc.**

By:   
Paul Carter  
President

Dated: 8/31/07

**U.S. Environmental Protection Agency**

By:   
Narindar Kumar, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

Dated: 9/6/07

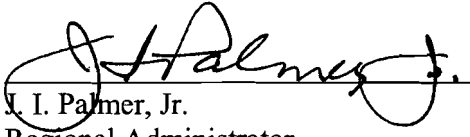
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	)	DOCKET NO.: RCRA-04-2007-4010(b)
	)	
Intertrade Holdings, Inc.	)	
State Highway 68	)	
Copperhill, Tennessee, 37317	)	Proceeding under Section 3008(a) of
	)	the Resource Conservation and Recovery
EPA ID No.: TND 003 337 839	)	Act, 42 U.S.C. § 6928(a)
	)	
RESPONDENT.	)	
_____	)	

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 11th day of September, 2007.

BY:   
J. I. Palmer, Jr.  
Regional Administrator  
EPA Region 4

In the Matter of Intertrade Holdings, Inc.  
Docket Number: RCRA-04-2007-4010(b)

**CERTIFICATE OF SERVICE**

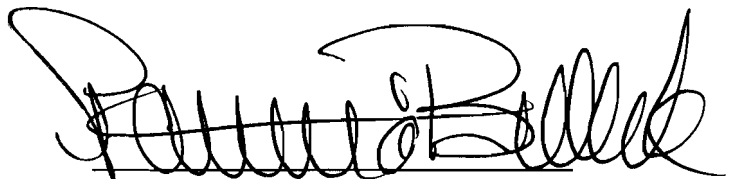
I hereby certify that on SEP 18 2007, I filed the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Intertrade Holdings, Inc., Docket Number: RCRA-04-2007-4010(b), and that on SEP 18 2007 I served a true and correct copy of the CA/FO on the parties listed below in the manner indicated:

Via Certified Mail- Return Receipt Requested

F. Edwin Hallman, Jr., Esquire  
Decker, Hallman, Barber & Briggs  
Suite 1700  
260 Peachtree Street, N.W.  
Atlanta, GA 30303

Via EPA's internal mail

Michael T. Newton  
Associate Regional Counsel  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303



Patricia A. Bullock  
Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9511