EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Andrea Simpson (Name of Case Attorney) 7/19/18 (Date)

in the ORC (RAA) (Office & Mail Code) at 918-1113 (Phone number)

Case Docket Number RCRA-01-2018-0041

Site-specific Superfund (SF) Acct. Number _____

✓ This is an original debt ____ This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Ellison Surface Technologies, Inc
Ellison Holdings, LLC
1016 Innovation Drive
North Clarendon Vermont 05759

Total Dollar Amount of Receivable $ 77,093 Due Date: 8/18/18

SEP due? Yes _____ No ✓ Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1ST $ _____ on _____

2nd $ _____ on _____

3rd $ _____ on _____

4th $ _____ on _____

5th $ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____ _____
in the Financial Management Office Phone Number

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

July 19, 2018

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1 (ORA 18-1)
5 Post Office Square
Boston, Massachusetts 02109

Re: Ellison Surface Technologies, Inc.; Ellison Holdings, LLC;
Docket No. RCRA-01-201-0041

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter, please find the original and one copy of the Consent Agreement and Final Order. Thank you for your assistance in this matter.

Very truly yours,

Andrea Simpson
Senior Enforcement Counsel

cc: Michael Benza

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

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Wanda Santiago
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Dear Ms. Santiago:

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Very truly yours,

Andrea Simpson
Senior Enforcement Counsel

cc: Michael Benza

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

In the Matter of: Ellison Surface Technologies, Inc. Ellison Holdings, LLC 106 Innovation Drive North Clarendon, Vermont 05759 Respondents Proceeding under Section 3008(a) of the Resource Conservation Recovery *Act, 142 U.S.C. § 6928(a)*	**EPA Docket No. RCRA-01-2018-0041** RECEIVED JUL 19 2018 EPA ORC WS Office of Regional Hearing Clerk **CONSENT AGREEMENT AND FINAL ORDER**

CONSENT AGREEMENT AND FINAL ORDER

Complainant, the United States Environmental Protection Agency ("EPA"), alleges that Respondents, Ellison Surface Technologies, Inc. and Ellison Holdings, LLC (together "Respondents"), violated Sections 3002 and 3005 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6922 and 6925, 10 Vermont Statutes Annotated chapter 159, and the Vermont Hazardous Waste Management Regulations ("VHWMR") 7-101 *et seq*.

This Consent Agreement and Final Order ("CAFO") simultaneously commences and concludes the cause of action described herein, pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b), and Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). Complainant and Respondents

(collectively, the "Parties") agree that settlement of this matter is in the public interest and that entry of this CAFO without litigation is the most appropriate means of resolving this matter.

I. STATUTORY AND REGULATORY FRAMEWORK

1. In 1976, Congress enacted RCRA, amending the Solid Waste Disposal Act, to regulate hazardous waste management. RCRA Subtitle C, 42 U.S.C. § 6921 *et seq.*, empowers EPA to identify and list hazardous wastes. It also authorizes EPA to regulate hazardous waste generators, transporters, and the owners and operators of hazardous waste treatment, storage, and disposal facilities. EPA has promulgated federal regulations to implement RCRA Subtitle C, which are set forth at 40 C.F.R. Parts 260-270.

2. Pursuant to Section 3001 of RCRA, 42 U.S.C. § 6921, EPA promulgated regulations to define what materials are "solid wastes," and of these solid wastes, what wastes are regulated as "hazardous wastes." These regulations are set forth at 40 C.F.R. Part 261.

3. Section 3002 of RCRA, 42 U.S.C. § 6922, required EPA to establish standards applicable to generators of hazardous wastes. These standards are codified at 40 C.F.R. Part 262 and relate to such matters as determining whether a waste is hazardous, container management, labeling and dating containers, inspecting waste storage areas, training, and planning for emergencies.

4. Section 3005 of RCRA, 42 U.S.C. § 6925, required EPA to establish standards requiring owners or operators of a treatment, storage or disposal facility to obtain an operating permit.

5. In 1984, Congress substantially amended RCRA with the Hazardous and Solid Waste Amendments ("HSWA") to, among other things: (a) restrict the disposal of hazardous

wastes on the land or in landfills; and (b) change the method for determining whether wastes are toxic (and therefore hazardous). RCRA Section 3004(c)-(p), 42 U.S.C. § 6924(c)-(p).

6. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, EPA may authorize a state to administer its hazardous waste program in lieu of the federal program when the Administrator deems the state program to be equivalent to the federal program.

7. The State of Vermont received final authorization on January 7, 1985, with an effective date of January 21, 1985 (50 FR 775) to implement the RCRA hazardous waste management program. The Region published an immediate final rule for certain revisions to Vermont's program on May 3, 1993 (58 FR 26,242). This authorization became effective August 6, 1993 (see 58 FR 31,911). The Region granted authorization for further revisions to Vermont's program on September 24, 1999 (64 FR 51,702), effective November 23, 1999. The Region granted authorization for further revisions to Vermont's program on October 26, 2000, effective December 26, 2000 (65 FR 64,164). On June 23, 2005 (70 FR 36,350) the Region published an immediate final rule for additional revisions to Vermont's program. This authorization became effective on August 22, 2005. The Region granted authorization for further revisions to Vermont's program on March 16, 2007 (72 FR 12,568), which became effective on May 15, 2007. The Region granted authorization for further revisions to Vermont's program on December 31, 2013 (78 FR 79,615), which became effective on March 3, 2014.

8. Vermont's federally-authorized hazardous waste management regulations are codified at VHWMR, Subchapters 1-9, § 7-101 through § 7-916.

9. Section 3006 of RCRA, 42 U.S.C. § 6926, as amended, provides, *inter alia*, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore,

a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.

10. Pursuant to Sections 3008(a) and 3006(g) of RCRA, 42 U.S.C. § 6928(a) and 6926(g), EPA may enforce the federally-approved Vermont hazardous waste program, as well as the federal regulations promulgated pursuant to HSWA, by issuing orders requiring compliance immediately or within a specified time for violations of any requirement of Subtitle C of RCRA, Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e.

11. Sections 3008(a) and (g) of RCRA provide that any person who violates any order or requirement of Subchapter C of RCRA shall be liable to the United States for a civil penalty in an amount of up to $25,000 per day for each violation. Pursuant to the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701 *et seq*., as well as 40 C.F.R. Part 19, the inflation-adjusted civil penalty for a violation of Subchapter III of RCRA is up to $32,500 per day per violation for violations that occurred after March 15, 2004 and before January 13, 2009. Violations that occurred after January 13, 2009 and on or before November 2, 2015, are subject to penalties up to $37,500 per day per violation. Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461 note, Pub. L. 114-74, as well as 40 C.F.R. Part 19, the inflation-adjusted civil penalty for a violation of Subchapter III of RCRA increased to $97,229 per day for each violation that occurred after November 2, 2015, and is assessed on or after January 15, 2018.

II. GENERAL AND FACTUAL ALLEGATIONS

12. Ellison Surface Technologies, Inc. ("Ellison") is a corporation established under the laws of Kentucky, with its headquarters located in Mason, Ohio. Ellison operates a facility in

North Clarendon, Vermont. Ellison operates another facility in Vermont, as well as facilities in Kentucky, Tennessee, Canada and Mexico.

13. Ellison is a "person" as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(15), and VHWMR § 7-103.

14. Ellison Holdings, LLC ("Ellison Holdings') is a limited liability company established under the laws of Ohio. At all times relevant to the allegations set forth in this CAFO, Ellison Holdings, LLC was and currently is the "owner," as defined in 40 C.F.R. § 260.10, of a facility located at 106 Innovation Drive, North Clarendon, Vermont ("Facility").

15. Ellison Holdings is "person" as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(15), and VHWMR § 7-103.

16. At all times relevant to the allegations set forth in this CAFO, Ellison manufactured coatings for industrial and aerospace parts at the Facility.

17. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), Ellison notified the state of Vermont that it was a small quantity generator of hazardous waste on October 30, 1997.

18. At all times relevant to the allegations set forth in this CAFO, Ellison was and is a "generator," as that term is defined in 40 C.F.R. § 260.10 and VHWMR § 7-103, of hazardous waste.

19. At all times relevant to this CAFO, Ellison generated and continues to generate "hazardous waste," as that term is defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), and VHWMR § 7-103, at the Facility. Hazardous wastes that are currently generated or have been generated at the Facility include, but are not limited to: waste hydrochloric and nitric acid,

sludge from an acetone filtration process, moly waste and universal wastes including batteries and fluorescent light bulbs.

20. As the owner and operator of a facility that generates hazardous waste, Respondents are subject to the requirements for small quantity generators of hazardous wastes set forth at VHWMR § 7-301 *et seq.*

21. On July 27, 2016, duly authorized representatives of EPA conducted an inspection at the Facility ("Inspection") to determine Respondents' compliance with RCRA and the federal and state regulations promulgated thereunder. During the Inspection, the inspectors observed conditions at the Facility and reviewed documents related to hazardous waste management.

III. ALLEGATIONS OF VIOLATIONS

22. Based on the Inspection and document review, EPA alleges the following facts and violations of RCRA, 10 Vermont Annotated Statutes chapter 159, and VHWMR.

COUNT I: Storage of Hazardous Waste without Certification

23. Complainant incorporates by reference the allegations of paragraphs 1-22 above.

24. Pursuant to Section 3005 of RCRA and VHWMR § 7-504(a), except for the facilities and activities excluded under § 7-502, certification from the Secretary (of the Vermont Agency for Natural Resources) is required to treat, store, dispose, or accept any hazardous waste. Pursuant to VHWMR § 7-307(c)(2), a small quantity generator must store hazardous waste for no longer than 180 days from the date the waste first began to accumulate.

25. At the time of the Inspection, Respondents were storing three containers of hazardous wastes for longer than 180 days.

26. Respondents' storage of hazardous waste without certification from the Secretary violated Section 3005 of RCRA and VHWMR § 7-504(a).

COUNT II: Failure to Determine if a Waste is a Hazardous Waste

27. Complainant incorporates by reference the allegations of paragraphs 1-26 above.

28. Pursuant to VHWMR § 7-303, any person who generates a waste shall determine if that waste is a hazardous waste in accordance with VHWMR § 7-202.

29. At the time of the Inspection, Respondents had not conducted hazardous waste determinations for several waste streams generated at the Facility.

30. Respondents' failure to perform hazardous waste determinations violated VHWMR § 7-303.

COUNT III: Failure to Post Emergency Information and Provide Emergency Equipment in the Hazardous Waste Storage Area

31. Complainant incorporates by reference the allegations of paragraphs 1-30 above.

32. Pursuant to VHWMR § 7-307(c)(14)(B), a small quantity generator must post the following information in the immediate vicinity of all short-term storage areas and locations where hazardous wastes are accumulated: (i) the name and telephone numbers (office, cellular and home) of the emergency coordinator(s); (ii) location of fire extinguishers and spill control material, and, if present, fire alarm; and (iii) the telephone number of the fire department, unless the facility has a direct alarm. Pursuant to VHWMR § 7-309(a)(1)(B) and (C), all facilities must be equipped with: a device, such as a cellular telephone, that must be immediately available at the scene of operations, capable of summoning emergency assistance from local police departments, fire departments or state or local emergency response teams; and portable fire extinguishers, fire control equipment (including special extinguishing equipment such as that

using foam, inert gas or dry chemicals), spill control and decontamination equipment. Pursuant to § 7-311(a)(4), the spill and fire control equipment required under § 7-309(a)(1)(C) must be available in the immediate vicinity of each short-term storage area.

33. At the time of the Inspection, Respondents' hazardous waste storage area did not have any emergency postings with contact information for the emergency coordinator or fire department. There was no description of the location of fire extinguishers or spill control material. There was no phone or other communication device at or near the short-term storage area. Additionally, there was no fire extinguisher or other fire control equipment maintained in the immediate vicinity of the hazardous waste storage area.

34. Respondents' failure to post emergency information at the hazardous waste storage area, and maintain a fire extinguisher and other fire control equipment in the immediate vicinity of the hazardous waste storage area violated VHWMR § 7-307(c)(14)(B), § 7-309(a)(1)(B) and (C), and § 7-311(a)(4).

COUNT IV: Failure to Maintain an Inventory of Hazardous Waste in Storage

35. Complainant incorporates by reference the allegations of paragraphs 1-34 above.

36. Pursuant to VHWMR § 7- 311(d)(1), small and large quantity generators shall maintain, at a location apart from the short-term storage area, a list of all hazardous waste currently in storage. For generators storing hazardous waste in containers, the list shall identify each container being stored and the type of hazardous waste held by each container. Any waste being accumulated within a short-term storage area must be included on the list of hazardous waste in storage.

37. At the time of the Inspection, Respondents did not maintain a list of all hazardous waste in storage.

38. Respondents' failure to maintain a list of all hazardous waste in storage violated VHWMR § 7- 311(d)(1).

COUNT V: Failure to Conduct and Document Inspections of Hazardous Waste Storage Area

39. Complainant incorporates by reference the allegations of paragraphs 1-38 above.

40. Pursuant to VHMR § 7-311(d)(2), small and large quantity generators shall conduct daily inspections during regular business days of each short-term storage area. The inspections shall be recorded in a log that is kept at the facility for at least three years. The log shall contain a checklist of the items to be inspected which shall include: (a) visual inspection of the short-term storage area for rusting, bulging, or leaking containers or tanks; (b) inspection of all safety and emergency equipment required under § 7-311(a)(4); (c) inspection of adequate aisle space between rows of containers; (d) a description of discrepancies or problem areas encountered in the inspection and the corrective actions taken; and (e) the signature or initials of the inspector and the date of the inspection.

41. During the Inspection, an employee of Ellison stated that inspections of the hazardous waste storage area vary in frequency, and are performed once or twice per month, but not daily. The inspection team reviewed all of the inspection checklists from 2016, which consisted of checklists for the following dates:

1/12/16;
2/19/16;
3/22/16;
4/18/16;
5/5/16; and
7/6/16.

42. The inspection logs lacked detail and did not identify the following issues in the hazardous waste storage area: lack of adequate aisle space; containers stored for more than 180-days; inadequately labeled containers; missing secondary containment; chemical incompatibility; and missing emergency response equipment.

43. Respondents' failure to inspect the hazardous waste storage area daily and note deficiencies on inspection checklists violated VHWMR § 7-311(d)(2).

COUNT VI: Failure to Segregate Incompatible Wastes

44. Complainant incorporates by reference the allegations of paragraphs 1-43 above.

45. Pursuant to VHWMR § 7-311(b)(1), containers or tanks holding incompatible hazardous wastes must not be stored in the same enclosure, building or structure unless they are segregated in a manner that prevents the wastes from coming into contact with one another under any circumstances (such as spillage or simultaneous leakage).

46. At the time of the Inspection, in the hazardous waste storage area, Respondents were storing incompatible hazardous wastes on the same secondary containment pallets.

47. Respondents' failure to segregate containers of incompatible hazardous wastes violated VHWMR § 7-311(b)(1).

COUNT VII: Failure to Label Containers of Hazardous Waste

48. Complainant incorporates by reference the allegations of paragraphs 1-47 above.

49. Pursuant to VHWMR § 7-311(f)(1), with the exception of satellite accumulation containers, containers used for the storage of hazardous waste shall be clearly marked from the time they are first used to accumulate or store waste. Such marking shall include: (a) the generator's name, address and EPA identification number; (b) the name and hazardous waste

identification code(s) of the hazardous waste stored therein; and (c) the following language: "Hazardous Waste – Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency." Pursuant to VHWMR § 7- 310(a)(5), satellite accumulation containers must be marked with the words "Hazardous Waste" and other words that identify the contents.

50. At the time of the Inspection, Respondents stored numerous improperly-labeled containers of hazardous waste in the hazardous waste storage area and satellite accumulation areas.

51. Respondents' failure to properly label or mark containers of hazardous waste violated VHWMR § 7-311(f)(1)(A), (B) and (D) and VHWMR § 7- 310(a)(5).

COUNT VIII: Failure to Maintain Adequate Aisle Space

52. Complainant incorporates by reference the allegations of paragraphs 1-51 above.

53. Pursuant to VHWMR § 7-311(b)(3), aisle space between rows of containers of hazardous waste must be sufficient to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to any area of the facility operation. In no circumstances shall the aisle space be less than twenty-four (24) inches wide.

54. At the time of the Inspection, hazardous waste containers were placed directly between adjacent drums and the wall of the hazardous waste storage area, rendering them inaccessible.

55. Respondents' failure to maintain proper aisle space in the hazardous waste storage area violated VHWMR § 7-311(b)(3).

COUNT IX: Failure to Properly Manage Universal Wastes

56. Complainant incorporates by reference the allegations of paragraphs 1-55 above.

57. Pursuant to 40 C.F.R. § 273.15(a) which is incorporated by VHMWR § 7-902, a small quantity handler of universal waste may accumulate universal waste batteries for no longer than one year from the date the universal waste is generated or received from another handler.

58. Pursuant to VHWMR § 7-912(d)(5)(A), both small and large quantity handlers of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment. Small and large quantity handlers must package universal waste lamps in containers that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

59. At the time of the Inspection, Respondents did not properly store used batteries and used fluorescent bulbs, both of which are universal wastes.

60. Respondents' failure to properly manage universal wastes violated VHMWR § 7-902, which incorporates by reference 40 C.F.R. § 273.15(a), and VHWMR § 7-912(d)(5)(A)(i).

IV. TERMS OF SETTLEMENT

61. This CAFO shall apply to and be binding upon Respondents, their officers, employees, successors and assigns.

62. Respondents stipulate that EPA has jurisdiction over the subject matter alleged herein and that the CAFO states a claim upon which relief can be granted against Respondents. Respondents waive any defenses they might have as to jurisdiction and venue. Without

admitting or denying the factual allegations or conclusions of law contained in this CAFO, and without admitting or denying liability as to any claim alleged in this CAFO, Respondents consent for purposes of settlement to the terms of this CAFO.

63. Respondents hereby waive their right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint, and waive their right to appeal the Final Order accompanying this Consent Agreement.

64. Respondents certify that the Facility located in North Clarendon, Vermont is now in compliance with Sections 3002 and 3005 of RCRA, and the federal and state hazardous waste regulations promulgated thereunder, including, but not limited to the following:

65. Respondents have ceased storing hazardous waste for greater than 180 days without obtaining a certificate from the Secretary, in accordance with VHWMR § 7-504(a). In addition, Respondents shall ship off site any hazardous wastes that have been stored for more than 180 days.

66. Respondents have made hazardous waste determinations for all wastes generated at the Facility, including, but not limited to, paper filters in the Molydag spray booths, waste aerosols and all wastes in the hazardous waste storage area.

67. The Facility is equipped with fire extinguishers and spill control equipment in the immediate vicinity of the hazardous waste storage area and all locations where hazardous wastes are accumulated, in accordance with VHWMR § 7-309(a)(1)(C); and Respondents have posted the following emergency response information in the immediate vicinity of its hazardous waste storage area and locations where hazardous wastes are accumulated: (i) the name and telephone numbers (office, cellular and home) of the emergency coordinator(s); (ii) location of fire

extinguishers and spill control material, and, if present, fire alarm; and (iii) the telephone number of the fire department, unless the facility has a direct alarm, in accordance with VHWMR § 7-307(c)(14)(B).

68. Respondents have established and maintained at the Facility an inventory of all hazardous waste containers in storage, in accordance with VHWMR § 7-311(d)(1).

69. Respondents are conducting and documenting completely daily inspections of their hazardous waste storage area, in accordance with VHMR § 7-311(d)(2).

70. Respondents have segregated incompatible wastes in the hazardous waste storage area, in accordance with VHWMR § 7-311(b)(1).

71. Respondents have properly labeled containers of hazardous waste in the hazardous waste storage area with the accumulation date, in accordance with VHWMR § 7-311(f)(1)(c). In addition, Respondents have labeled all satellite accumulation containers, in accordance with VHWMR § 7- 310(a)(5).

72. Respondents are maintaining adequate aisle space in the hazardous waste storage area sufficient to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to any are of the facility operation, such that each row of containers can be inspected to ensure compliance with the container management standards, in accordance with violated VHWMR § 7-311(b)(3).

73. Respondents are storing universal wastes for no longer than one year, in accordance with 40 C.F.R. § 273.15(a) which is incorporated by VHMWR § 7-902, and are managing universal wastes lamps in a way that prevents releases of any universal waste or component of a

universal waste to the environment, in accordance with VHWMR § 7-912(d)(5)(A)(i). Specifically, Respondents are storing universal wastes lamps in closed containers.

74. Pursuant to Section 3008 of RCRA, based upon the nature of the alleged violations, and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of seventy-seven thousand ninety-three dollars ($77,093).

75. Respondents consent to the issuance of this CAFO and consent for the purposes of settlement to the payment of the civil penalty cited in the foregoing paragraph.

76. Respondents shall pay the penalty of seventy-seven thousand ninety-three dollars ($77,093) within 30 days of the effective date of this CAFO in the following manner: The payment shall be made by remitting a check or making an electronic payment, as described below. The check or other payment shall reference "*In the Matter of Ellison Surface Technologies, Inc. and Ellison Holdings, LLC*; Consent Agreement and Final Order, EPA Region 1," Respondents' name and address, and the EPA Docket Number of this action (RCRA-01-2018-0041), and be payable to "Treasurer, United States of America." The payment shall be remitted as follows:

If remitted by regular U.S. mail:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

If remitted by any overnight commercial carrier:

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

If remitted by wire transfer: Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

c. At the time of payment, a copy of the check (or notification of other type of payment) shall also be sent to:

Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912

and
Andrea Simpson
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Mail Code: OES04-2
Boston, MA 02109-3912

77. In the event that Respondents fail to pay the civil penalty in accordance with paragraphs 74 and 76 above, Respondents shall be liable for stipulated penalties, as follows: if Respondents fail to pay the civil penalty by its due date, Respondents shall pay $300 per day for the first thirty (30) days of violation; $500 for the next sixty (60) days of violation; and $750 per day for each day of violation thereafter until the payment is received.

78. Stipulated penalties as set forth in paragraph 77 above, shall begin to accrue on the day after performance is due and shall continue to accrue until the penalty payment is received

by EPA. EPA may, in its sole discretion, elect not to seek stipulated penalties or elect to compromise any portion of stipulated penalties that accrue pursuant to this CAFO.

79. Respondents shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties.

Method of payment shall be as follows: Respondents shall submit a certified or cashier's check payable to the order of the "Treasurer, United States of America," referencing the case name and docket number of this action on the face of the check, to:

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

Respondents shall provide copies of each check to:

Wanda Santiago
Regional Hearing Clerk (Mail Code ORA18-1)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

and

Andrea Simpson
Senior Enforcement Counsel (Mail Code OES 04-2)
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Interest and late charges shall be paid as stated in paragraph 84 below.

80. Nothing in this CAFO shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of

Respondents' violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondents' violation of any applicable provision of law.

81. The civil penalty due, and any interest, non-payment penalties or charges that arise pursuant to this CAFO shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes. Accordingly, Respondents agree to treat all payments made pursuant to this CAFO as penalties within the meaning of Section 1.162-21 of the Internal Revenue Code, 26 U.S.C. § 1.162-21, and further agree not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state or local law.

82. This CAFO shall not relieve Respondents of their obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

83. This CAFO constitutes a settlement by and between EPA and Respondents of all civil claims pursuant to RCRA for the violations alleged herein. Nothing in this CAFO is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondents. Nothing in the CAFO shall be construed to limit the authority of EPA to undertake any action against Respondents in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

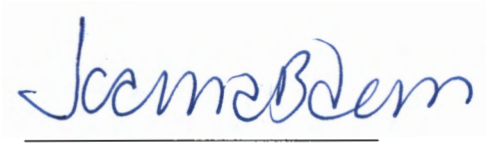
84. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty (or any portion thereof) on the date it is due under this CAFO if such penalty (or portion thereof) is not paid in full by such due date. Interest will be assessed at the rate of the United States Treasury tax and

loan rate in accordance with 31 C.F.R. § 901.9(b)(2). In addition, a penalty charge of six percent per year and an amount to cover the costs of collection will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d).

85. Each undersigned representative of the Parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

86. Each party shall bear its own costs and attorneys' fees in connection with the action resolved by this CAFO. Respondents specifically waive any right to recover such costs from EPA pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

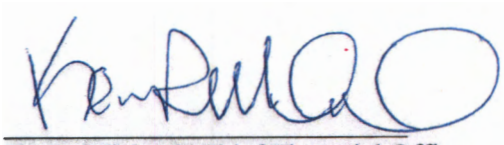
For Complainant:



Date: July 16, 2018

Joanna Jerison
Legal Enforcement Manager
U.S. Environmental Protection Agency
Region 1

For Respondents:



Kevin Michael, Chief Financial Officer
Ellison Surface Technologies, Inc.

Date: July 12, 2018

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondents are hereby ordered to comply with the terms of the above Consent Agreement, which will become effective on the date it is filed with the Regional Hearing Clerk.

LeAnn Jensen
Regional Judicial Officer
U.S. Environmental Protection Agency-Region 1

July 18, 2018
Date