

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

In the Matter of:

Country Life, LLC

Respondent.

Proceeding under Section 3008 of the
Solid Waste Disposal Act, as amended

CONSENT AGREEMENT AND
FINAL ORDER

Docket No. RCRA-02-2019-7107

This is a civil administrative proceeding instituted for injunctive relief and the assessment of civil penalties pursuant to Section 3008 of the Solid Waste Disposal Act as amended by various laws including the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments (HSWA) of 1984, 42 U.S.C. §§6901, *et seq.* (referred to collectively as “RCRA” or the “Act”) and the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits,” 40 Code of Federal Regulations (“C.F.R.”) Part 22.

Section 3006(b) of the Act, 42 U.S.C. §6926(b), provides that EPA’s Administrator may, if certain criteria are met, authorize a state to operate a hazardous waste program (within the meaning of Section 3006 of the Act, 42 U.S.C. §6926) in lieu of the regulations comprising the federal hazardous waste program (the Federal Program). The State of New York received final authorization to administer its base hazardous waste program on May 29, 1986. Since 1986, New York State has been authorized for many other hazardous waste requirements promulgated by EPA pursuant to RCRA. See 67 Fed. Reg. 49864 (August 1, 2002), 70 Fed. Reg. 1825 (January 11, 2005) 74 Fed. Reg. 31380 (July 1, 2009) and 78 Fed. Reg. 15299 (March 11, 2013).

Section 3008(a) of the Act, 42 U.S.C. §6928(a), authorizes EPA to enforce the regulations constituting the authorized state program, and EPA retains primary responsibility for the enforcement of certain requirements promulgated pursuant to HSWA.

The Complainant and Country Life, LLC (“Respondent”) agree, by entering into this Consent Agreement and Final Order (“CA/FO”), that settlement of this matter upon the terms set forth in this CA/FO is an appropriate means of resolving the claims specified in the Complaint, Compliance Order and Notice of Opportunity for Hearing (Complaint) issued to Respondent on or about September 26, 2019 without litigation. The Findings of Fact and Conclusions of Law set forth below, which pertain to times relevant to this proceeding, are not intended, nor are they to be construed, as Respondent either admitting or denying such findings and conclusions. No adjudicated findings of fact or conclusions of law have been made.

EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. This administrative Tribunal has jurisdiction over the subject matter of this action pursuant to Section 3008(a) of RCRA, 42 U.S.C. §6928(a), and 40 C.F.R. §22.1(a)(4).
2. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C §6928(a)(2), EPA has given notice of this action to the State of New York.
3. Respondent is Country Life, LLC (hereinafter "Country Life" and/or "Respondent").
4. Respondent is a vitamin and supplement manufacturing company.
5. Respondent's Facility is located on 180 Vanderbilt Motor Parkway, Hauppauge New York 11788 ("the Facility")
6. Country Life maintains one 180-day hazardous waste storage area and generates the majority of its hazardous waste from its laboratory at the Facility.
7. Respondent is a for-profit corporation organized pursuant to the laws of the State of New York.
8. Respondent is a "person," as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. §6903(15), and 6 NYCRR §370.2(b).
9. Respondent is and has been the "owner" of the Facility as that term is defined in 6 NYCRR §370.2(b).
10. Respondent is and has been the "operator" of the Facility as that term is defined in 6 NYCRR §370.2(b).
11. Country Life, in carrying out its pre- and post-production laboratory activities, and occasionally in the course of conducting normal building maintenance operations, has been generating, and continues to generate, "solid waste" (within the meaning of 6 NYCRR §371.1(c)) at its Facility.
12. In carrying out its pre-and post-production laboratory activities, and occasionally in the course of conducting normal building maintenance operations, Country Life has been generating, and continues to generate, hazardous waste, as defined in 6 NYCRR §371.1(d), at its Facility.
13. At all times mentioned in the Complaint and subsequent thereto, Respondent generated on average, more than 100 kilograms ("kg") but less than 1000 kilograms ("kg") of

- hazardous waste in a calendar month and has been considered a "small quantity generator" as that phrase is defined in 6 NYCRR §370.2(b).
14. As of November 2017, and prior and subsequent thereto, Respondent has been a small quantity generator of hazardous waste at the Facility.
 15. Hazardous waste is and has been stored in the Facility's hazardous waste container storage area and in numerous satellite accumulation areas located within the Country Life Facility.
 16. Pursuant to Section 3010 of RCRA, 42 U.S.C. §6930, Country Life informed EPA that it generated hazardous waste through a notification (EPA form 8700-12) in August 2010.
 17. In response to the Notification, EPA provided Country Life with the following EPA Identification Number: NYD981184989.
 18. On or about November 29, 2017, a duly designated representative of EPA, pursuant to Section 3007 of RCRA, 42 U.S.C. §6927, conducted a Compliance Evaluation Inspection of the Facility (the "Inspection").
 19. Pursuant to Sections 3007 and 3008 of RCRA, 42 U.S.C. §§6927 and 6928, on or about August 9, 2018 EPA issued Country Life a combined Notice of Violation ("NOV") and Information Request Letter ("IRL").
 20. On or about October 16, 2018, a duly authorized representative of Country Life submitted its certified Response ("Response") to the combined NOV and IRL.
 21. Based on the Inspection and Respondent's Response to EPA's IRL, EPA issued the Complaint alleging that at the time of the Inspection, November 29, 2017, Respondent had failed to: (1) minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste, and failed to properly use and manage containers; (2) properly handle Universal Waste; and (3) obtain a permit to store hazardous waste which it was obligated to have when it failed to satisfy required conditions for storing such waste without a permit.
 22. EPA and Country Life met to discuss the allegations in EPA's Complaint and agreed to settle this matter by entering into this Consent Agreement.

CONSENT AGREEMENT

Pursuant to Section 3008 of RCRA, 42 U.S.C. §6928, and 40 C.F.R. §22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, it is hereby agreed by and between the parties hereto,

and voluntarily and knowingly accepted by Respondent that, for purposes of this Consent Agreement and in the interest of settling this matter expeditiously without the time, expense or uncertainty of a formal adjudicatory hearing on the merits, Respondent: (a) admits the jurisdictional basis for EPA prosecuting this case; (b) neither admits nor denies the allegations in the Complaint issued by EPA in this matter, nor the above EPA's Findings of Fact and Conclusions of Law; (c) consents to the assessment of the civil penalty as set forth below; (d) consents to the issuance of the Final Order incorporating all the provisions of this Consent Agreement; and (e) waives its right to contest or appeal that Final Order.

Pursuant to 40 C.F.R. §22.31(b), the executed Consent Agreement and accompanying Final Order ("CA/FO") shall become effective and binding when filed with the Regional Hearing Clerk of the Agency, Region 2 (such date henceforth referred to as the "effective date").

It is further hereby agreed by and between Complainant and Respondent, and voluntarily accepted by Respondent, that it shall comply with the following terms and conditions:

1. Respondent shall hereinafter, at the Facility, comply with RCRA and all applicable New York State authorized hazardous waste regulations relating to the generation and management of hazardous waste, including:
 - a. maintaining and operating the Facility in a manner that minimizes 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 pursuant to applicable provisions, including complying with 6 NYCRR §§373-2.3(b), 373-2.9(b), 373-2.9(c), and 373-2.9(h);
 - b. complying with all applicable provisions for the proper handling of universal waste, including 6 NYCRR §374-3.2(d)(4)(i), 6 NYCRR §374-3.2(e)(5), 6 NYCRR §374-3.2(f)(3), 6 NYCRR §374-3.2(e)(1) and 6 NYCRR §373-3.3(b); and,
 - c. complying with the provisions that, if satisfied, will allow it to store hazardous waste for limited time-periods at the Facility without a permit, including the applicable sections of 6 NYCRR Parts 372 and 373.
2. Respondent hereby certifies that, as of the date of its signature to this Consent Agreement, to the best of its knowledge and belief, it is in compliance with all applicable requirements of RCRA and its implementing regulations relating to the generation and management of hazardous waste at the Facility.

3. Respondent shall pay a civil penalty to EPA in the amount of **Seventy-Six Thousand Nine Hundred Dollars (\$76,900)**. Such payment shall be made by cashier's check, certified check or by electronic fund transfer (EFT). If the payment is made by check, then the check shall be made payable to the "**Treasurer, United States of America,**" and shall be mailed to:

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

The check shall be identified with a notation thereon listing the following: **In re Country Life, LLC, Docket Number RCRA-02-2019-7107**

Alternatively, if Respondent chooses to make the payment by EFT, Respondent shall then provide the following information to its remitter bank:

- a. Amount of Payment: **\$76,900**
 - b. SWIFT address: **FRNYUS33, 33 Liberty Street, New York, New York 10045**
 - c. Account Code for Federal Reserve Bank of New York receiving payment: **68010727**
 - d. Federal Reserve Bank of New York ABA routing number: **021030004**
 - e. Field Tag 4200 of the Fedwire message should read: **D 68010727 Environmental Protection Agency**
 - f. Name of Respondent: **Country Life, LLC**
 - g. Case docket number: **RCRA-02-2019-7107**
4. The payment must be received at the above address (or account of EPA) on or before thirty (30) calendar days after the date of the signature of the Final Order, which is located at the end of this CA/FO.
5. Payment instructions:
- a. Payment shall be in accordance with the instructions set forth in this paragraph. Respondent's payment, whether by cashier's check, certified check, or by the EFT method, such payment shall be *received* at the above-listed address on or before the time period specified in Paragraph 4.
 - b. Whether Respondent makes payment by cashier's check, certified check or by the EFT method, Respondent shall, promptly when payment has been made, furnish reasonable proof that the required payment has been made, and such proof shall be furnished to the EPA individuals identified below in Paragraph 8.

- c. Failure to pay the specified amount in full within the time period set forth above may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
 - d. Furthermore, if the required payment is not received on or before the date when such payment is due under the terms of this document, interest therefore shall be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. §3717, on the overdue amount from the date such payment was to have been made through the date such payment has been received. In addition, a late payment handling charge of \$15.00 will be assessed for each thirty (30) day period or any portion thereof, following the date any such payment was to have been received, in which payment of the amount(s) remains in arrears. In addition, a 6% per annum penalty will be applied to any principal amount that has not been received by the EPA within ninety (90) days of the date for which such payment was required hereto to have been made.
6. The civil penalty provided for in this section constitutes a penalty within the meaning of 26 U.S.C. §162(f).
7. Respondent consents to service of the CA/FO by e-mail and consents to service upon it by an employee other than the Regional Hearing Clerk. Promptly upon filing with the Regional Hearing Clerk, Complainant agrees to e-mail to Respondent (to the representatives designated in Paragraph 8, infra), a copy of the fully executed CA/FO.
8. Except as the parties may otherwise in writing agree, all documentation and information required to be submitted in accordance with the terms and conditions of this Consent Agreement shall be sent both by e-mail and in hardcopy to:

William Chernes, Enforcement Officer
RCRA Compliance Branch
Enforcement & Compliance Assurance Division
US Environmental Protection Agency, Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866
Chernes.William@epa.gov

And

Carl Howard, Assistant Regional Counsel
Office of Regional Counsel

US Environmental Protection Agency, Region 2
290 Broadway, Room 1621
New York, New York 10007-1866
Howard.Carl@epa.gov

Unless the above-named EPA contacts are later advised otherwise in writing, EPA shall address any future written communications related to this matter (including any correspondence related to the payment of the penalty) to Respondent either by e-mail or to the following addresses:

Wendy Lucas, President
Country Life, LLC
180 Vanderbilt Motor Parkway
Hauppauge, New York 11788
wlucas@countrylifivitamins.com

And,

Joseph Cacchioli, Chief Financial Officer
Country Life, LLC
180 Vanderbilt Motor Parkway
Hauppauge, New York 11788
jcacchioli@countrylifivitamins.com

With a copy to Respondent's legal counsel:

Maureen M. Crough, Counsel
Sidley Austin LLP
787 Seventh Ave.
New York, New York 10019
mcrough@sidley.com

9. Respondent has read this Consent Agreement, understands its terms, and consents to the issuance of the Final Order accompanying this Consent Agreement. Respondent further consents to making payment of the entire amount of the civil penalty in accordance with the terms and schedule set forth above.
10. This CA/FO does not waive, extinguish or otherwise affect Respondent's obligation to comply with all provisions of RCRA and the regulations promulgated thereto including New York's authorized hazardous waste program, nor is it intended or to be construed to be a ruling on or determination of any issue related to any federal, state or local permit.
11. Nothing in this document is intended or construed to waive, prejudice or otherwise affect the right of EPA, or the United States, from pursuing any appropriate remedy,

sanction or penalty prescribed by law against Respondent, if Respondent has made any material misrepresentations or has provided materially false information in any document submitted in connection with this proceeding.

12. Full payment of the penalty described in paragraph 3 of this CA/FO shall only resolve Respondent's liability for federal civil penalties for the violation(s) and facts alleged in the Complaint issued in this matter. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any other violations of law.
13. Respondent waives its right to request a hearing on this Consent Agreement, or the Final Order included herein, including any right to contest any allegations in the Complaint or EPA's Findings of Fact and Conclusions of Law contained within this document.
14. Respondent agrees not to contest the validity or any term of this Consent Agreement and Final Order in any action, suit or proceeding brought by the United States on behalf of EPA to: (a) enforce this Consent Agreement and Final Order; or b) enforce a judgment relating to this Consent Agreement and Final Order. Any failure by Respondent to perform fully any requirement herein will be considered a violation of this Consent Agreement and Final Order and may subject Respondent to a civil judicial action by the United States to enforce the provisions of this Consent Agreement and Final Order.
15. Respondent waives any right it might possess to seek or obtain judicial review of the Final Order incorporating this Consent Agreement pursuant to Section 10(c) of the Administrative Procedure Act, 5 U.S.C. §704, and/or under any other applicable law.
16. This Consent Agreement and any provision herein shall not be construed as an admission of liability in any adjudicatory or administrative proceeding, except in an action, suit or proceeding to enforce this Consent Agreement or any of its terms and conditions.
17. Each party shall bear its own costs and fees in connection with this proceeding.
18. EPA and Respondent agree that the parties may use electronic signatures for this matter.
19. The signatory for the Respondent certifies that: a) he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all the terms, conditions and requirements set forth in this Consent Agreement; and b) he or she is duly and fully authorized to bind the party on behalf of which he or she is entering this Consent Agreement to comply with and abide by all the terms, conditions and requirements of this Consent Agreement.

RESPONDENT:

BY: Wendy C. Lucas
(Signature)

NAME: Wendy Lucas

TITLE: President, Country Life, LLC

DATE: 7/28/2020

COMPLAINANT:

KATHLEEN
ANDERSON

Digitally signed by KATHLEEN
ANDERSON
Date: 2020.07.28 16:41:04 -04'00'

Dore F. LaPosta, Director
Enforcement and Compliance Assurance Division
Environmental Protection Agency, Region 2
290 Broadway, 21st floor
New York, NY 10007-1866

DATE: _____

In the Matter of Country Life, LLC
Docket Number RCRA-02-2019-7107

FINAL ORDER

The Regional Administrator of EPA, Region 2 concurs in the foregoing Consent Agreement in the case of *In the Matter of County Life, LLC*, bearing Docket Number RCRA-02-2019-7107. Said Consent Agreement, having been duly accepted and entered into by the parties, is hereby ratified and incorporated into this Final Order, which is hereby issued and shall take effect when filed with the Regional Hearing Clerk of EPA, Region 2. 40 C.F.R. §22.31(b). This Final Order is being entered pursuant to the authority of Section 3008 of RCRA and 40 C.F.R. §22.18.



Peter D. Lopez, Regional Administrator
U.S. Environmental Protection Agency
Region 2
290 Broadway, 26th Floor
New York, NY 10007

DATE: 7/28/2020

In the Matter of Country Life, LLC
Docket Number RCRA-02-2019-7107

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addressees below:

By e-mail:

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency- Region 2
290 Broadway, 16th floor
New York, New York 10007-1866
Maples.Karen@epa.gov

Copy by e-mail:

Wendy Lucas, President
Country Life, LLC
180 Vanderbilt Motor Parkway
Hauppauge, New York 11788
wlucas@countrylifevitamins.com

Joseph Cacchioli, Chief Financial Officer
Country Life, LLC
180 Vanderbilt Motor Parkway
Hauppauge, New York 11788
jcacchioli@countrylifevitamins.com

Maureen M. Crough, Counsel
Sidley Austin LLP
787 Seventh Ave.
New York, New York 10019
mcrough@sidley.com

Dated: July 30. 2020

Carl R. Howard

