UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 29 2016

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL 7009 1680 0000 7648 7900
RETURN RECEIPT REQUESTED

Mr. Philip J. Tannian
Environmental Legal Service
Post Office Box 36538
Grosse Pointe Farms, Michigan 48236

Re: Consent Agreement and Final Order
Polar Environmental Service Corporation
Docket No: **RCRA-05-2016-0013**

Dear Mr. Tannian:

Enclosed please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed with the Regional Hearing Clerk on June 29, 2016.

Please instruct your client to pay the civil penalty of $42,700 in the manner prescribed in paragraph 54 of the CAFO, and reference all checks with the docket number **RCRA-05-2016-0013**. The first payment installment is due within 30 calendar days of the effective date of the CAFO. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings.* Thank you for your cooperation in resolving this matter.

Sincerely,

Gary J. Victorine

Gary J. Victorine, Chief
RCRA Branch

Enclosures

cc: Steve Sliver, MDEQ (slivers@michigan.gov)
Dan Dailey, MDEQ (daileyd@michigan.gov)
Mark Daniels, MDEQ (danielsm@michigan.gov)
John Craig, MDEQ (craigj@michigan.gov)
Lonnie Lee, MDEQ (leel@michigan.gov)

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

A. Such proceeding is material to the business or financial condition of the registrant;
B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than $100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

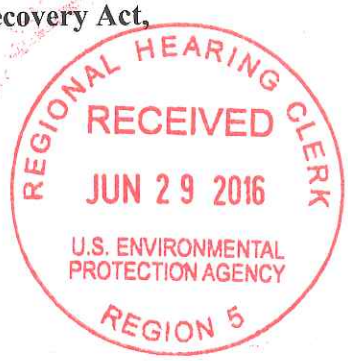
You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:	)	**Docket No. RCRA-05-2016-0013**
	)	
Polar Environmental Services, Inc.	)	**Proceeding to Commence and Conclude**
707 East Lewiston Avenue	)	**an Action to Assess a Civil Penalty**
Ferndale, Michigan 48220	)	**Under Section 3008(a) of the Resource**
	)	**Conservation and Recovery Act,**
U.S. EPA ID #: MID093826733	)	**42 U.S.C. § 6928(a)**
	)	
Respondent.	)	
	)	



Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

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

4. Respondent is Polar Environmental Services, Inc., a corporation doing business in the State of Michigan.

5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the

issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6992k, and the regulations at 40 C.F.R. Parts 260 - 279.

Statutory and Regulatory Background

12. U.S. EPA has 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 and used oil, pursuant to Sections 3001 – 3007, 3013, and 3014, among others, of RCRA, 42 U.S.C. §§ 6921 – 6927, 6934, and 6935.

13. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. 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 pursuant to Subtitle C (Sections 3001-3023 of RCRA,

42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to 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.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Michigan final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective October 30, 1986. 51 Fed. Reg. 36804 (October 16, 1986).

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. 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.

16. The Administrator of U.S. EPA may assess a civil penalty of up to $25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, U.S. EPA may assess a civil penalty of up to $27,500 per day for each violation of Subtitle C of RCRA that occurred after January 30, 1997 through March 15, 2004, $32,500 per day for each violation of Subtitle C of RCRA that occurred after March 15, 2004 through January 12, 2009, and $37,500 per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

16. Respondent was and is a "person" as defined by MAC R. 299.9106(i), 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent is the "owner" or "operator," as those terms are defined under MAC R. 299.9106(f) and (g) and 40 C.F.R. § 260.10, of a facility located at 707 East Lewiston Avenue, Ferndale, Michigan (facility).

18. The facility consists of land and structures, other appurtenances, improvements on the land, and equipment used for the storage and processing of used oil.

19. Respondent's Facility is a "facility," as that term is defined under MAC R. 299.9103(q) and 40 C.F.R. 260.10.

20. At all times relevant to this CAFO, Respondent operated as a used oil processor and storage facility for used oil received from off-site locations.

21. At all times relevant to this CAFO, Respondent received, stored and processed "used oil," as that term is defined in MAC R. 299.9109(p) and 40 C.F.R. 279.1.

22. Respondent is a "used oil processor," as that term is defined in MAC R. 299.9109(z) and 40 C.F.R. 279.1.

23. On August 3 and 4, 2011, U.S. EPA conducted an inspection of the facility to determine Respondent's compliance with RCRA.

24. On November 7, 2012, EPA sent Respondent a notice of violation (NOV) identifying potential violations of RCRA.

25. On December 18, 2012, Respondent submitted a response to EPA's NOV.

26. On May 20, 2013, EPA sent Respondent a request for information pursuant to section 3007 of RCRA, 42 U.S.C. § 6927.

27. On August 3 and 16, 2013, Respondent submitted a response to EPA's request for information.

28. On February 13, 2014, EPA sent Respondent a second NOV identifying remaining

potential violations of RCRA.

29. Respondent is subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921 - 6939e, or the analogous Michigan regulations as part of the applicable state hazardous waste management program for the state of Michigan, or both.

30. At all times relevant to this CAFO, the State of Michigan has not issued a permit to Respondent to treat, store, or dispose of hazardous waste at the facility.

31. At all times relevant to this CAFO, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at the facility.

Count 1 – Storage of hazardous waste without a permit

32. Complainant incorporates paragraphs 1 through 31 of this CAFO as though set forth in this paragraph.

33. Pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a) and the regulations at 40 C.F.R. Part 270, the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a permit is prohibited.

34. To establish whether used oil is a hazardous waste under the rebuttable presumption of MAC R. 299.9809(2)(b), the owner or operator of a used oil processing facility must determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm. MAC R. 299.9813(4) and 40 C.F.R. § 279.53(a).

35. The owner or operator must make the determination described above under MAC R. 299.9813(4) and 40 CFR § 279.53(a) by testing the used oil, or applying knowledge of the halogen content of the used oil in light of the materials or processes used. MAC R. 299.9813(4) and 40 CFR §§ 279.53(b)(1) and (2).

36. If the used oil contains greater than or equal to 1,000 ppm total halogens, then it is

presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in subpart D of 40 C.F.R. Part 261. MAC R. 299.9809(2)(b) and 40 C.F.R. § 279.53(c).

37. The owner or operator of a used oil processing facility may rebut the presumption described above by demonstrating that the used oil does not contain hazardous waste by showing, for example, that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 C.F.R. Part 261. MAC R. 299.9809(2)(b) and 40 C.F.R. § 279.53(c).

38. A May 18, 2011 laboratory report for used oil being managed at Respondent's Facility indicated the used oil had a total extractable halogen concentration of 5,800 ppm. A May 26, 2011 laboratory report for the same used oil being managed at Respondent's Facility indicated the used oil had a total halogen concentration of 7,950 ppm.

39. On August 3 and 16, 2013, Respondent provided analytical information for the used oil generator customers it believed had contributed to the used oil samples from May 18 and 26, 2011 in an effort to rebut the presumption that those used oil streams were mixed with hazardous waste.

40. The information Respondent submitted on August 3 and 16, 2013, lacked analytical information for many of the used oil generator customers Respondent had listed as having contributed to the May 2011 samples. Additionally, much of the analytical information provided by Respondent post-dated the May 2011 samples.

41. Respondent failed to rebut the presumption that used oil managed at its Facility during May 18-26, 2011 had been mixed with halogenated hazardous waste and was hazardous waste under MAC R. 299.9813(4) and 40 C.F.R. §§ 279.53(a) and (c).

42. On August 5 and 16, 2013, Respondent indicated that the used oil identified in the

May 18 and 26, 2011 laboratory reports had been managed and stored in the Facility's north and south unloading pits and Tanks 2, 3, 6, 7, 8 and 19.

43. At all times relevant to this CAFO, Respondent's north and south unloading pits and Tanks 2, 3, 6, 7, 8, and 19 were "tanks," as that term is defined in MAC R. 299.9108(a) and 40 C.F.R. § 260.10.

44. Respondent, therefore, stored hazardous waste in its north and south unloading pits and Tanks 2, 3, 6, 7, 8 and 19 without a hazardous waste storage license, in violation of MAC R. 9502(1) and 40 C.F.R. § 270.1(c).

Count 2 – Failure to implement a used oil analysis plan

45. Complainant incorporates paragraphs 1 through 44 of this CAFO as though set forth in this paragraph.

46. Owners and operators of used oil processor facilities must develop and follow a written used oil analysis plan describing the procedures that will be used to comply with the analysis requirements of the rebuttable presumption for used oil. MAC R. 299.9813(3) and 40 C.F.R. § 279.55.

47. Respondent failed to develop and implement a used oil analysis plan sufficient to rebut the presumption of used oil mixture with hazardous waste and violated MAC R. 299.9813(3) and 40 C.F.R. § 279.55.

Count 3 – Failure to comply with hazardous waste storage tank standards

48. Complainant incorporates paragraphs 1 through 47 of this CAFO as though set forth in this paragraph.

49. Owners or operators of facilities that use tank systems for storing or treating hazardous waste must follow the applicable requirements of MAC R. 299.9615. Subpart J of 40

C.F.R. Part 264.

50. As recited in Count 1, Respondent stored and managed hazardous waste in its north and south unloading pits and Tanks 2, 3, 6, 7, 8 and 19 without a hazardous waste storage license.

51. At all times relevant to this CAFO, Respondent's north and south unloading pits and Tanks 2, 3, 6, 7, 8 and 19 did not meet the applicable standards of hazardous waste storage tank systems.

52. Respondent, therefore, stored hazardous waste in tanks that did not meet the applicable standards of MAC R. 299.9615 and Subpart J of 40 C.F.R. Part 264.

Civil Penalty

53. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is $42,700. In determining the penalty amount, Complainant took into account the seriousness of the violation and Respondent's agreement to perform a supplemental environmental project. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

54. Respondent must pay the civil penalty in four installments with interest as follows:

Installment	Due By	Payment	Principal	Interest (1%)
Payment #1	Within 30 days of effective date of CAFO	$10,710.58	$32,025	$35.58
Payment #2	Within 140 days of effective date of CAFO	$10,772.85	$21,350	$97.85
Payment #3	Within 250 days of effective date of CAFO	$10,740.24	$10,675	$65.24
Payment #4	Within 360 days of effective date of CAFO	$10,707.62	$0	$32.62

Respondent must pay the installments by sending cashier's checks, payable to "Treasurer, United

States of America," to:

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

The check must state *"In the matter of: Polar Environmental Services, Inc."* and the docket number of this CAFO.

55. A transmittal letter stating Respondent's name, the case title and the case docket number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Brian Kennedy (LR-8J)
RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Tom Williams (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

56. This civil penalty is not deductible for federal tax purposes.

57. If Respondent does not pay an installment payment as set forth in paragraph 54, above, or timely pay any stipulated penalties due under paragraph 77, below, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The

validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

58. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a $15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

Compliance Order and Agreement

59. Based on the foregoing, Respondent is hereby ordered, pursuant to authority in 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. § 22.37(b), to comply with the following requirements immediately upon the effective date of the CAFO:

60. Respondent shall complete closure of its north and south unloading pits and Tanks 2, 3, 6, 7, 8 and 19, in accordance with the Michigan Department of Environmental Quality (MDEQ) - approved closure plan for the facility, and in accordance with applicable and enforceable State and Federal regulations, statutes and orders.

61. Respondent shall notify U.S. EPA in writing upon achieving final compliance with all the conditions of this CAFO within fifteen (15) calendar days after the date it achieves compliance. If Respondent has not taken or completed any requirement of this CAFO, Respondent shall notify U.S. EPA of the failure, its reasons for the failure, and the proposed date for compliance within ten (10) calendar days after the due date set forth in this CAFO.

62. Respondent shall submit all reports, submissions, and notifications required by this CAFO to the United States Environmental Protection Agency, Region 5, Land and Chemicals

Division, RCRA Branch, Attention: Brian Kennedy (LR-8J), 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

63. Failure to comply with any requirements of the CAFO shall subject Respondent to liability for a civil penalty of up to THIRTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS ($37,500) for each day of continued noncompliance with the deadlines contained in this CAFO. U.S. EPA is authorized to assess such penalties pursuant to RCRA Section 3008(c).

Supplemental Environmental Project

64. Respondent must complete a supplemental environmental project (SEP) designed to protect the environment or public health by dismantling and removing the remaining process tanks on its site and conducting a subsurface investigation in the areas formerly occupied by these tanks.

65. Respondent must complete the SEP as follows: (1) dismantle and remove the eleven aboveground storage Tanks 1, 4, 5, 11, 12, 13, 14, 18, 20, 21, and 22, (2) conduct subsurface investigations (sampling) underneath and/or around the areas formerly occupied by these tanks to ensure soil and/or groundwater meet the applicable standards in the State of Michigan, and (3) based upon the results of the subsurface investigation, conduct any remedial action or implement any necessary engineering or institutional controls that may be required by the applicable standards in the State of Michigan.

66. Respondent must spend at least $197,750 to dismantle and remove the 11 aboveground storage tanks listed in this SEP.

67. Respondent must spend at least $21,200 to complete the subsurface investigations of the areas underneath and/or around the 11 aboveground storage tanks listed in this SEP.

68. Respondent certifies that it is not required to perform or develop the SEP by any

law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

69. U.S. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

70. Respondent must submit an initial SEP progress report and, if SEP completion takes more than three months, quarterly SEP progress reports every three months thereafter until the SEP is complete. The initial SEP progress report must be submitted within 30 days of the effective date of the CAFO. The initial SEP progress report must contain the following information:

a. The status of the 11 aboveground tanks listed in this SEP including tanks that have been dismantled and removed, tanks scheduled to be dismantled and removed, and photographs documenting the state of the tanks.

b. A schedule estimating the dates of removal of the remaining tanks on site.

c. A summary of the planned or completed subsurface investigations to date, including sampling plan(s) and procedures, the constituents of concern to be analyzed, and their corresponding results, as applicable.

d. Itemized list of expenditures related to the removal of the aboveground storage tanks and the subsurface investigations including receipts and invoices, as applicable.

71. Respondent must submit quarterly SEP progress reports three months following the effective date of this CAFO and every three months thereafter until the completion of the SEP. The quarterly progress reports must contain the following information:

a. The current status of the 11 aboveground tanks listed in this SEP including tanks that have been dismantled and removed, tanks scheduled to be dismantled and removed, and photographs documenting the state of the tanks.

b. A schedule estimating the dates of removal of the remaining tanks on site.

c. A summary of the subsurface investigations to date, including analytical results for the constituents of concern and related information.

d. Itemized list of expenditures related to the removal of the aboveground storage tanks and the subsurface investigations including receipts and invoices, as applicable.

72. Upon completion of the SEP, Respondent must submit a SEP completion report. The SEP completion report must be submitted to U.S. EPA within 30 days after completion of the final subsurface investigation. The SEP completion report must include:

a. Photographs displaying the removal of all 11 aboveground storage tanks.

b. The analytical results of any remaining subsurface investigations.

c. A summary of any necessary remedial actions or engineering or institutional controls that may be required as a result of the subsurface investigation, as applicable by the standards in the State of Michigan.

d. A summary of the total expenditures for both the removal of the 11 aboveground storage tanks and all subsurface investigations, displaying that Respondent has spent the amounts required in paragraphs 66 and 67, respectively.

e. A description of the environmental or public health benefits resulting from the SEP.

73. Respondent must submit all notices and reports required by this CAFO by first class or overnight mail, or electronic mail to Brian Kennedy of the RCRA Branch, at kennedy.brian@epa.gov.

74. In the SEP completion report and, if required, each progress report, that Respondent submits as required by this CAFO, it must certify that the report is true and complete by including the following statement signed by a responsible corporate officer:

> I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

75. Following the receipt of the SEP completion report described in paragraph 72, above, U.S. EPA must notify Respondent in writing that:

a. Respondent has satisfactorily completed the SEP and the SEP report;

b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Respondent 30 days to correct the deficiencies; or

c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 77, provided that Respondent may then request 30 days to correct deficiencies before such penalties accrue, in which case EPA may seek stipulated penalties if, after the passage of 30 days, the SEP or SEP report still has not been satisfactorily completed.

76. If U.S. EPA exercises option b., above, Respondent may object in writing to the deficiency notice within ten days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Respondent a written decision on its objection. Respondent will comply with any requirements that U.S. EPA imposes in its decision. If Respondent does not complete the SEP as required by U.S. EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 77, below.

77. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

a. Except as provided in subparagraph b., below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO, Respondent must pay a penalty of $48,500.

b. If Respondent did not complete the SEP satisfactorily, but U.S. EPA determines that Respondent (i) made good faith and timely efforts to complete the SEP and (ii) certified, with supporting documents, that it spent at least 90 percent of the amounts set forth in paragraphs 66 and 67, Respondent will not be liable for a stipulated penalty under subparagraph a., above.

c. If Respondent did not timely submit the SEP completion report, or did not timely submit any other report required by paragraphs 70 or 71, Respondent

must pay penalties in the following amounts for each day after the report was due until it submits the report:

Penalty per violation per day	Period of violation
$1,000	1st through 14th day
$1,500	15th through 30th day
$3,000	31st day and beyond

78. U.S. EPA's determinations of whether Respondent satisfactorily completed the SEP and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

79. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 54, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

80. Any public statement that Respondent makes referring to the SEP must include the following language: "Polar Environmental Services, Inc. undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Polar Environmental Services, Inc. for violations of Section 3005 of RCRA, 42 U.S.C. § 6925(a) and the requirements of MAC R. 9502(1) [40 C.F.R. § 270.1(c)], MAC R. 299.9813(3) [40 C.F.R. § 279.55], and MAC R. 299.9615 [Subpart J of 40 C.F.R. Part 264]."

81. Nothing in this CAFO is intended to, nor will be construed to, constitute U.S. EPA approval of any company, contractor, consultant, equipment or technology utilized by Respondent in connection with the SEP under this CAFO.

82. For Federal Income Tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs of expenditures incurred in performing the SEP.

General Provisions

83. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

84. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

85. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

86. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

87. This CAFO binds Respondent, its successors, and assigns.

88. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

89. Each party agrees to bear its own costs and attorney's fees in this action.

90. This CAFO constitutes the entire agreement between the parties.

Polar Environmental Services, Inc., Respondent

6/1/2016
Date

Robert J. Crawford
Title : President
Polar Environmental Services, Inc.

United States Environmental Protection Agency, Complainant

6/22/2016
Date

Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
Polar Environmental Services
Docket No. RCRA-05-2016-0013

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

6/24/16
Date

Robert Kaplan
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Polar Environmental Services, Inc.
Docket Number: **RCRA-05-2016-0013**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on June 29, 2016, this day in the following manner to the addressees:

Copy by certified mail
return-receipt requested:

Polar Environmental Services, Inc.
c/o Mr. Philip J. Tannian
Environmental Legal Service
Post Office Box 36538
Grosse Pointe Farms, Michigan 48236

Copy by e-mail to
Attorney for Complainant:

Thomas M. Williams
williams.tom@epa.gov

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: June 29, 2016

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

Certified Mail and
Return Receipt Requested
7009 1680 0000 7648 7900