



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

March 17, 2017

BY HAND

Wanda Santiago, Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 1 (ORA 18-1)  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Re: *In Re University of Vermont and State Agricultural College;*  
Docket Number RCRA-01-2016-0077

Dear Ms. Santiago:

Enclosed please find an executed Consent Agreement and Final Order for filing in the above-referenced matter.

Kindly file the documents in the usual manner. Thanks very much for your help.

Very truly yours,

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

Michael Wagner  
Enforcement Counsel

Enclosures

cc: John J. Collins, Esq.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I**

In the Matter of: )

University of Vermont and State )  
Agricultural College, )  
85 South Prospect Street )  
344-353 Waterman Building )  
Burlington, VT 05405, )

Respondent. )

Proceeding under Section 3008(a) of the )  
Resource Conservation Recovery )  
Act, 142 U.S.C. § 6928(a) )

EPA Docket No. RCRA-01-2016-0077

**CONSENT AGREEMENT AND FINAL ORDER**

Complainant, the United States Environmental Protection Agency ("EPA"), having filed the Complaint herein on September 30, 2016, against Respondent University of Vermont and State Agricultural College ("Respondent"); and

Complainant and Respondent having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order ("CAFO") without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby Ordered and Adjudged as follows:

## I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding for the assessment of a civil penalty, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”).

2. The Complaint alleges that Respondent violated Sections 3002, 3004 and 3005 of RCRA, 42 U.S.C. §§ 6922, 6924 and 6925, 10 Vermont Statutes Annotated chapter 159, the Vermont Hazardous Waste Management Regulations (“VHWMR”) 7-101 *et seq.*, and the hazardous waste facility treatment and storage permit that the Vermont Department of Environmental Conservation issued to Respondent on November 20, 2012 (“Permit”).

3. Respondent filed its Answer on October 26, 2016.

4. This CAFO shall apply to and be binding upon Respondent, its officers, employees, successors and assigns.

5. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue. Without admitting or denying the factual allegations or conclusions of law contained in the Complaint or in this CAFO, and without admitting or denying liability as to any claim alleged in the Complaint or in this CAFO, Respondent consents for purposes of settlement to the terms of this CAFO.

6. Respondent hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint, and waives its right to appeal the Final Order accompanying this Consent Agreement.

## II. TERMS OF SETTLEMENT

7. Respondent certifies that its Environmental Research Safety Facility Bio-Research Complex facility located in Burlington, Vermont, is now in compliance with Sections 3002, 3004 and 3005 of RCRA, the federal and state hazardous waste regulations promulgated thereunder, and the Permit, including but not limited to the following:

a. Respondent does not currently store incompatible wastes in the same container and, pursuant to Permit Conditions 1.7, 1.13, and 5.9, and VHWMR 7-504(e)(4), in the future Respondent shall not place or store incompatible wastes and materials in the same container;

b. Respondent currently includes, and in the future shall include, all applicable waste codes on land disposal restriction notifications, in accordance with Condition 7.1 of the Permit, VHWMR § 7-504(e)(3), and 40 C.F.R. § 268.7(a)(2);

c. Respondent shall provide the necessary hazardous waste training, and Department of Transportation training, to employees with hazardous waste management responsibilities, in accordance with Permit Conditions 5.1 and 8.3 and VHWMR § 7-504(e)(1); and

d. Respondent has labeled, and in the future shall label, based on accurate waste determinations, containers of hazardous waste with all applicable waste codes pursuant to Permit Conditions 1.7, 1.13, and 5.9, and VHWMR 7-504(e)(4).

8. Pursuant to Section 3008 of RCRA, EPA has determined that an appropriate civil penalty to settle this action is in the amount of twenty thousand dollars (\$20,000).

9. For purposes of settling this matter, Respondent consents to the issuance of this CAFO and consents for the purposes of settlement to the payment of the civil penalty cited in the foregoing paragraph.

10. Respondent shall pay the penalty of \$20,000 in the following manner:

a. The payment of \$20,000 shall be made within thirty calendar (30) days of the effective date of this CAFO by remitting a check or making an electronic payment, as described below. The check or other payment shall reference “*In the Matter of University of Vermont and State Agricultural College, Consent Agreement and Final Order, EPA Region 1,*” Respondent’s name and address, and the EPA Docket Number of this action (RCRA-01-2016-0077), and be payable to “Treasurer, United States of America.” The payments 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”

b. At the time of each 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

Michael Wagner  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency, Region I  
5 Post Office Square, Suite 100  
Mail Code: OES04-3  
Boston, MA 02109-3912

c. If Respondent fails to make the payment of \$20,000 by its due date, Respondent shall pay interest on the late amount pursuant to 31 U.S.C. § 3717, plus any late charges to cover the cost of processing and handling the delinquent claim. The interest on the late amount shall be calculated at the rate of the U.S. Treasury tax and loan rate, in accordance with 31 C.F.R. § 901.9(b)(2).

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

12. This CAFO shall not relieve Respondent of its 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.

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

14. If Respondent fails to pay the civil penalty it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. 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).

15. 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.

16. Each party shall bear its own costs and attorneys' fees in connection with the action resolved by this CAFO. Respondent specifically waives 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:



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

Date: 3/10/17

For Respondent:



Thomas Sullivan  
President

Date: 2-27-17



**FINAL ORDER**

Pursuant to 40 C.F.R. § 22.18(b) and (c) of EPA's Consolidated Rules of Practice, the foregoing Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. The Respondent, the University of Vermont, is ordered to pay the civil penalty amount specified in the Consent Agreement, in the manner indicated.

The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

~~Regional Hearing Clerk.~~



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

March 14, 2017  
Date

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent to the following persons, in the manner specified, on the date below:

Two copies, hand-delivered:

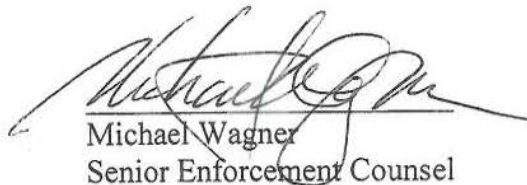
Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region 1  
5 Post Office Square, Suite 100  
Mail Code: ORA18-1

A true and correct copy, by certified mail, return receipt requested:

John J. Collins, Esq.  
Senior Associate General Counsel  
Office of Legal Affairs & General Counsel  
Waterman 375 Building  
Burlington, VT 05405

Date:

3/17/07

  
Michael Wagner  
Senior Enforcement Counsel