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EPA REGION VI

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS**

IN THE MATTER OF:	§	CONSENT AGREEMENT
	§	AND FINAL ORDER
	§	
WEATHERFORD LABORATORIES, INC.	§	Docket No. RCRA-06-2016-0954
	§	
HOUSTON, TEXAS	§	
	§	
RESPONDENT	§	

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**CONSENT AGREEMENT AND FINAL ORDER**

**I. PRELIMINARY STATEMENT**

1. This Consent Agreement and Final Order (CAFO) is entered into by the United States Environmental Protection Agency Region 6 (EPA or Complainant) and Weatherford Laboratories, Inc. (Respondent) The facilities covered by this CAFO include:

- a) The facility located at 8845 Fallbrook, Houston Texas (Houston facility); and
- b) The facility located at 5200 North Sam Houston Parkway, Houston, Texas (Sam Houston facility).

2. Notice of this action has been given to the State of Texas, under Section 3008(a)(2) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a)(2).

3. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein. However, Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.

4. Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO, and waives all defenses that have been raised or could have been raised to the claims set forth in the CAFO.

5. This CAFO resolves only those violations that are alleged herein.

6. Respondent consents to the following: issuance of the CAFO hereinafter recited; the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO; and to the specific stated compliance order.

## **II. JURISDICTION**

7. This CAFO is issued by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984, and is simultaneously commenced and concluded through the issuance of this CAFO under 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and 22.18(b)(3).

8. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by the EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this CAFO. Furthermore, Respondent agrees not to contest the validity of this CAFO, or its terms or conditions.

## **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

9. Respondent is a Texas corporation registered to do business in the State of Texas on July 15, 1983.

10. Respondent's registered agent for service in the State of Texas is C T Corporation System with the registered office street address at 1999 Bryan Street, Suite 900 in Dallas, Texas 75201.

11. This CAFO was commenced concurrently and in conjunction with the CAFOs for the matters of Weatherford Artificial Lift Systems, LLC (Docket No. RCRA-06-2016-0937) and (Docket No. RCRA-06-2016-0938), and Weatherford U.S., L.P. (Docket No. RCRA-06-2016-0955). Respondent, Weatherford Artificial Lift Systems, LLC, and Weatherford U.S., L.P., are affiliated as subsidiaries under a common domestic Weatherford parent corporation.

12. Respondent is a “person” within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15); and 30 TEX. ADMIN. CODE § 3.2(25) (40 C.F.R. § 260.10).

13. Respondent is an “owner” or “operator” of the Houston and Sam Houston facilities, within the meaning of 30 TEX. ADMIN. CODE § 335.1(109), (110) (40 C.F.R. § 260.10).

14. Respondent is a “generator” of hazardous waste at all of the facilities, as the term is defined in 30 TEX. ADMIN. CODE § 335.1(65) (40 C.F.R. § 260.10).

15. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth at 30 TEX. ADMIN. CODE § 335(C) and/or (F) (40 C.F.R. §§ 262 and/or 270).

16. Between October 2015 and May 2016, EPA conducted an investigation and record review (Investigation) of Respondent’s performance as a hazardous waste generator and compliance with RCRA and the regulations promulgated thereunder.

17. From the Investigation, EPA determined that in 2015, Respondent’s Houston facility generated, at a minimum, hazardous waste in quantities that exceeded its generator status of a SQG by generating more than the threshold amount of 1,000 kg of hazardous waste per month, which qualified Respondent for the LQG status under 30 TEX. ADMIN. CODE, Chapter 335, Subchapter C (40 C.F.R. § 262).

18. From the Investigation, EPA determined that in 2015, Respondent’s Sam Houston facility

generated, at a minimum, hazardous waste in quantities that exceeded its generator status of a CESQG by generating more than the threshold amount of 100 kg of hazardous waste per month, which qualified Respondent for either the SQG or LQG status under 30 TEX. ADMIN. CODE, Chapter 335, Subchapter C (40 C.F.R. § 262).

19. From the Investigation, EPA determined that in 2015, Respondent's Sam Houston facility was generating and otherwise handling hazardous waste in quantities greater than the CESQG quantities without an EPA identification number.

### **Claim 1: Notification Requirements**

20. Complainant hereby restates and incorporates by reference Paragraphs 1 through 19.

21. Pursuant to RCRA § 3010(a), 42 U.S.C. § 6930(a), any person generating a characteristic or listed waste shall file with the Administrator or authorized State, a notification stating the location and general description of such activity and the identified or listed hazardous wastes handled by such person. This includes a subsequent notification for a change in the status of a generator. *See also* 30 TEX. ADMIN. CODE § 335.6(c).

22. At the time of the Investigation, Respondent, for the applicable years and facilities, had not filed with the Administrator or with the State of Texas, a notification for a change in hazardous waste activities.

23. Respondent did not file the required subsequent notification of hazardous waste activities for the Houston and Sam Houston facilities, in violation of 30 TEX. ADMIN. CODE § 335.6(c) (Section 3010(a) of RCRA, 42 U.S.C. § 6930(a)).

### **Claim 2: Failure to Operate Within Proper Generator Status**

24. Complainant hereby restates and incorporates by reference Paragraphs 1 through 23.

25. A generator of hazardous waste is subject to the multiple requirements, including the applicable parts of 30 TEX. ADMIN. CODE § 335, Subchapters (C)-(H), (O) (40 C.F.R. Parts 124, 262-68, 270).

26. From the Investigation, EPA determined Respondent, at the Houston and Sam Houston facilities exceeded its respective generator status for the applicable years.

27. While operating as either a SQG or LQG during the relevant years, Respondent, at the Houston and Sam Houston facilities, failed to comply with various sections of the applicable SQG and LQG requirements.

28. Respondent did not operate within its designated status for its respective years at the Houston and Sam Houston facilities, in violation of 30 TEX. ADMIN. CODE § 335, Subchapters (C)-(H), (O) (40 C.F.R. § 262 and/or 270).

**Claim 3: Managing Hazardous Waste without a Generator Identification Number**

29. Complainant hereby restates and incorporates by reference Paragraphs 1 through 28.

30. Pursuant to 30 TEX. ADMIN. CODE § 335.63(a) (40 C.F.R. § 262.12(a)) a generator must not treat, store, dispose of, transport, or offer for transportation hazardous waste without receiving an EPA identification number from the Administrator.

31. From the Investigation, EPA determined that in 2015, Respondent's Sam Houston facility did not obtain an EPA identification number.

32. From the Investigation, EPA determined that in 2015, Respondent treated, stored, disposed of, and/or offered for transportation hazardous waste without having received an EPA identification number from the Administrator for the Sam Houston facility, in violation of 30 TEX. ADMIN. CODE § 335.63(a) (40 C.F.R. § 262.12(a)).

#### IV. COMPLIANCE ORDER

33. Pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within ninety (90) calendar days of the effective date of this CAFO, Respondent shall certify to EPA in writing the required actions have been taken:

- a. Respondent shall file a “Notification of Regulated Waste Activity: EPA Form 8700-12” to reflect actual waste generation for Houston and Sam Houston facilities, if applicable.
- b. Respondent shall comply with all the requirements of a SQG and LQG, where applicable, and develop and implement standard operating procedures to ensure the Houston and Sam Houston facilities, are operating in compliance with RCRA and the regulations promulgated thereunder. This includes, but is not limited to, procedures for:
  - i. making hazardous waste determinations;
  - ii. training personnel involved in managing, reporting, transporting, and disposing of hazardous waste;
  - iii. preparing hazardous waste manifests; and
  - iv. meeting the requirements of the land disposal requirements.
- c. For Respondent’s facilities that are not currently operational but will generate hazardous waste at either a SQG or LQG, Respondent shall develop standard operating procedures to ensure it will be in compliance with RCRA and the regulations promulgated thereunder. This includes, but is not limited to, procedures for:
  - i. making hazardous waste determinations;

- ii. training personnel involved in managing, reporting, transporting, and disposing of hazardous waste;
- iii. preparing hazardous waste manifests; and
- iv. meeting the requirements of the land disposal requirements.

34. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of Respondent for each facility, where applicable, described above and shall include the following certification:

I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Copies of all documents required by the CAFO shall be sent to the following:

Fred Deppe  
Waste Compliance II Section (6EN-H2)  
U.S. Environmental Protection Agency Region 6  
Compliance Assurance and Enforcement Division  
Waste Enforcement Branch  
1445 Ross Avenue  
Dallas, Texas 75202-2733

## V. TERMS OF SETTLEMENT

### A. Penalty Provisions

35. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the applicable

regulations, it is ordered that Respondent be assessed a civil penalty of \$39,000.00. This penalty is calculated concurrently and in conjunction with the CAFOs for the matters of Weatherford Artificial Lift Systems, LLC (Docket No. RCRA-06-2016-0937) and (Docket No. RCRA-06-2016-0938), and Weatherford U.S., L.P. (Docket No. RCRA-06-2016-0955).

36. The penalty shall be paid within thirty (30) calendar days of the effective date of this CAFO and made payable to Treasurer, United States of America.

37. The following are Respondent's options for transmitting the penalties:

Checks sent via U.S. Postal Mail (including certified mail) or U.S. Postal Service Express Mail should be remitted to:

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

Checks sent via Overnight Mail (non-U.S. Postal Service) should be remitted to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
314-418-1028

Wire Transfers should be remitted to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account No. 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045



The case name and docket number (**In the Matter of Weatherford Laboratories, Inc. (Docket No. RCRA-06-2016-0954)**) shall be documented on or within your chosen method of payment to ensure proper credit.

38. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn  
Regional Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, TX 75202-2733

Mark Potts, Branch Chief  
Waste Enforcement Branch (6EN-H)  
Compliance Assurance and Enforcement Division  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, TX 75202-2733  
Attn: Fred Deppe

Your adherence to this request will ensure proper credit is given when penalties are received by EPA.

39. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day

period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt that remains delinquent more than ninety (90) days pursuant to 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent pursuant to 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

**B. Costs**

40. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

**C. Termination and Satisfaction**

41. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall also certify this in writing and in accordance with the certification language set forth in Section IV (Compliance Order), Paragraph 33. Unless EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.


**D. Effective Date of Settlement**

42. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:**

FOR THE RESPONDENT:

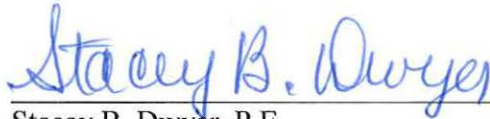
Date: 10/24/14

  
\_\_\_\_\_ *DKM*

Weatherford Laboratories, Inc.

FOR THE COMPLAINANT:

Date: 10/31/2016

  
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Stacey B. Dwyer, P.E.  
Acting Director  
Compliance Assurance and Enforcement Division  
U.S. EPA Region 6

**FINAL ORDER**

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. This Final Order 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 violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: \_\_\_\_\_

11/1/16

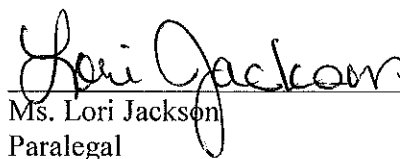
  
\_\_\_\_\_  
Renea Ryland  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that on the 2nd day of November, 2016, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method below:

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED** 7015 1520000339898337

Frederick W. Addison III  
Shareholder  
Munsch Hardt Kopf & Harr, P.C. on Behalf of: Weatherford Laboratories, Inc.  
500 North Akard Street, Suite 3800  
Dallas, Texas 75201

  
\_\_\_\_\_  
Ms. Lori Jackson  
Paralegal