

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In Re:	:	Docket No. RCRA-03-2009-0237
	:	
Ulbrich Delta LLC	:	CONSENT AGREEMENT
121 Domorah Drive	:	
Montgomeryville, PA 18936	:	Proceeding under Sections 3008(a) and (g)
	:	and 9006 of the Resource Conservation and
RESPONDENT	:	Recovery Act, as amended, 42 U.S.C.
	:	§ 6928(a) and (g) and § 6991e.

I. PRELIMINARY STATEMENT

1. This Consent Agreement ("CA") is entered into by the Director of the Land and Chemicals Division, United States Environmental Protection Agency, Region III ("Complainant" or "EPA"), and Ulbrich Delta LLC ("Ulbrich" or "Respondent"), pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, this CA and the attached Final Order ("FO", hereinafter jointly referred to as the "CA/FO") both commence and conclude the above-captioned administrative proceeding against Respondent, brought under Section 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a) and (g), for alleged violations of RCRA at Respondent's facility at 121 Domorah Drive, Montgomeryville, PA 18936 (the "Facility").
2. On January 30, 1986, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, Pennsylvania was granted final authorization to administer a state hazardous waste management program ("PaHWR") in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. PaHWR was reauthorized by EPA on September 26, 2000 (effective on November 27, 2000), January 20, 2004 (effective on March 22, 2004), and April 29, 2009 (effective June 29, 2009). The provisions of the authorized PaHWR, through such authorization, have become requirements of RCRA Subtitle C and are, accordingly, enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
3. The factual allegations and legal conclusions in this CA are based on provisions of the PaHWR in effect at the time of the violations alleged herein. The PaHWR incorporates by reference certain federal hazardous waste management regulations that were in effect

as of May 1, 1999 for the November 27, 2000 PaHWR authorization, and in effect on September 25, 2003 for the March 22, 2004 PaHWR authorization. The 2004 authorized PaHWR do not make any changes to the November 27, 2000 PaHWR that are relevant to the violations set forth herein. The revisions to the PaHWR authorized in 2009 are not applicable to any of the violations alleged in this CA.

4. On December 23, 2008, EPA sent a letter to the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (“PADEP”), giving Pennsylvania prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
5. This CA is entered into by Complainant and Respondent to address the violations alleged in the Allegations of Fact, as set forth below.
6. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of this CA.
7. For the purposes of this proceeding only, Respondent neither admits nor denies the Allegations of Fact contained in this CA, except as provided in Paragraph 6, above.
8. For the purposes of this proceeding only, Respondent neither admits nor denies the Conclusions of Law contained in this CA, except as provided in Paragraph 6, above.
9. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations herein or to appeal the FO attached hereto.
10. The settlement agreed to by the parties in this CA reflects the desire of the parties to resolve this matter without litigation.
11. Respondent consents to the issuance of this CA and to the attached FO and agrees to comply with their terms. Respondent agrees not to contest Complainant's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement thereof.
12. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

II. ALLEGATIONS OF FACT AND CONCLUSIONS OF LAW

13. This section represents the Allegations of Fact and Conclusions of Law made by Complainant in this matter. As set forth in Paragraphs 7 and 8, above, Respondent neither admits nor denies these Allegations of Fact and Conclusions of Law, but agrees to this settlement to avoid further litigation, as set forth in Paragraph 10, above.

14. Respondent is, and was at the time of the violations alleged herein, a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and as defined in 25 Pa. Code § 260a.10.
15. Respondent and/or its corporate predecessor is, and was at the time of the violations alleged herein, the “owner” and “operator” of a “facility” located at 121 Domorah Drive, Montgomeryville, Montgomery County, PA 18936 (the “Facility”), as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1, or in 25 Pa. Code § 260a.10.
16. On September 10, 2008, representatives from EPA conducted an inspection of the Facility (the “2008 Inspection”).
17. At the time of the 2008 Inspection, and at all times relevant to the violations alleged in this CA, Respondent was a “generator,” and was engaged in the “storage” of materials described herein that are “solid wastes” and “hazardous wastes” in “containers” and “tanks” at the Facility, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference into 25 Pa. Code § 260a.1 or as defined in 25 Pa. Code § 260a.10. At all times relevant to the violations alleged in this CA, Respondent generated more than 1,000 kg of hazardous waste in a calendar month.
18. On November 4, 2008, EPA issued a formal information request letter (“IRL”) to Respondent pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927(a). Respondent responded to the IRL on November 24, 2008.

COUNT I

(Operating a treatment, storage, or disposal facility without a permit or interim status)

19. The allegations of Paragraphs 1 through 18 of this Consent Agreement are incorporated herein by reference.
20. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 40 C.F.R. § 270.1(b), as incorporated by reference into 25 Pa. Code § 270a.1, no person may own or operate a facility for the treatment, storage, or disposal of hazardous waste unless such person has first obtained a permit for the facility or qualifies for interim status for such facility.
21. Respondent has never been issued a permit, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. Part 270, for the storage of hazardous waste at the Facility, and did not have interim status pursuant to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), or 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.70, at any time.

22. 40 C.F.R. § 262.34(a), as incorporated by reference into 25 Pa. Code § 262a.10, provides, in pertinent part, that a generator of hazardous waste who accumulate hazardous waste in containers, tanks, drip pads, or containment buildings on-site for less than 90 days is exempt from the requirement to obtain a permit for such accumulation, so long as the hazardous waste is stored in accordance with a number of conditions set forth in that section, including, *inter alia*:
- a. Pursuant to 40 C.F.R. § 262.34(a)(1)(i), as incorporated by reference into 25 Pa. Code § 262a.10, the generator complies with the requirements of 40 C.F.R. Part 265, Subpart I (relating to use and management of containers). 40 C.F.R. Part 265, Subpart I contains the following provisions:
 - (1) 40 C.F.R. § 265.173(a) provides that containers holding hazardous waste must always be kept closed during storage, except when it is necessary to add or remove waste.
 - (2) 40 C.F.R. § 265.174 provides that, at least weekly, the owner or operator must inspect areas where containers are stored.
 - b. Pursuant to 40 C.F.R. § 262.34(a)(4), as incorporated by reference into 25 Pa. Code § 262a.10, the generator complies with the requirements for owners or operators in Subpart C and D of 40 C.F.R. Part 265, and with 40 C.F.R. §§ 265.16 and 268.7(a)(5). 40 C.F.R. § 265.16 provides, in pertinent part, that the owner or operator of a hazardous waste treatment and storage facility must ensure that personnel successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the RCRA regulations.
23. From at least January 30, 2002 through September 10, 2008, Respondent was not in compliance with all of the conditions for temporary accumulation of hazardous waste by a generator pursuant to 40 C.F.R. § 262.34, as incorporated by reference into 25 Pa. Code § 262a.10, described in Paragraph 22, above, and therefore did not qualify for the exemption from the permitting/interim status requirements provided by such section. Specifically, Respondent failed to qualify for the "less than 90-day" storage exemption in 40 C.F.R. § 262.34(a), because it stored hazardous waste in containers at the Facility beyond the 90-day period set forth in the exemption during the following time periods: 12/8/05 - 12/23/05, 3/30/06 - 7/19/06, 10/19/06 - 11/6/06, 2/8/07 - 3/12/07, 11/15/07 - 12/10/07, 6/12/08 - 7/22/08, 8/7/08 - 9/23/08, and because it engaged in the following actions and omissions, and thus failed to satisfy the following requirements:
- a. By failing to keep containers holding hazardous waste closed during storage except when necessary to add or remove waste on September 10, 2008,

Respondent failed to satisfy the requirements of 40 C.F.R. § 265.173(a). [Required by 40 C.F.R. § 262.34(a)(1)(i), which incorporates by reference Subpart I, which includes this Section.]

- b. By failing to conduct weekly inspections of areas where containers holding hazardous waste are stored during the following periods, for a total of five missed weeks; 10/28/05 - 11/11/05, 11/23/05 - 12/23/05, and 2/23/06 - 3/10/06, Respondent failed to satisfy the requirements of 40 C.F.R. § 265.174. [Required by 40 C.F.R. § 262.34(a)(1)(i), which incorporates by reference Subpart I, which includes this Section.]
- c. By failing to ensure that personnel successfully completed a program of classroom instruction or on-the-job training that taught them to perform their duties in a way that ensured the Facility's compliance with the RCRA regulations, from January 30, 2002 through September 10, 2008. Respondent failed to satisfy the requirements of 40 C.F.R. § 265.16. [Required by 40 C.F.R. § 262.34(a)(4), which incorporates by reference this Section.]

The factual allegations resulting in these deficiencies are further described in Counts II, IV and V, below.

- 24. The Facility was, at all times relevant to the violations alleged in this CA, a hazardous waste treatment, storage or disposal "facility," as the term is defined by 25 Pa. Code § 260a.10, with respect to the activities and units described herein.
- 25. Respondent was required by 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for the Facility.
- 26. From at least January 30, 2002 to September 10, 2008, Respondent stored hazardous waste at the Facility without a permit, interim status or valid exemption, in violation of 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

COUNT II

(Failure to keep containers closed except when adding or removing hazardous waste)

- 27. The allegations of Paragraphs 1 through 26 of this Consent Agreement are incorporated herein by reference.

28. Pursuant to 40 C.F.R. § 264.173(a), as incorporated by reference into 25 Pa. Code § 264a.1, a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
29. At the time of the September 10, 2008 Inspection, several containers at the Facility holding hazardous waste were open during storage, even though it was not necessary to add or remove waste from these containers at the time of the Inspection.
30. On September 10, 2008, Respondent failed to keep containers holding hazardous waste closed during storage at the Facility while it was not necessary to add or remove waste, in violation of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a).

COUNT III

(Failure to Store Containers in a Proper Configuration)

31. The allegations of Paragraphs 1 through 30 of this Consent Agreement are incorporated herein by reference.
32. 25 Pa. Code § 264a.173(3) requires that, for indoor or outdoor storage of nonreactive or nonignitable hazardous waste, the container height, width and depth of a group of containers shall provide a configuration and aisle spacing which ensures safe management and access for purposes of inspection, containment and remedial action with emergency vehicles.
33. During an inspection on June 28, 2005 by PADEP inspectors, containers of nonreactive, nonignitable hazardous waste were not kept in a configuration and spacing that insured safe management and access for inspection purposes and emergency equipment.
34. During the September 10, 2008 inspection, containers of nonreactive, nonignitable hazardous waste were not kept in a configuration or with aisle spacing that ensured access for inspection.
35. On September 10, 2008, Respondent failed to store containers of nonreactive, nonignitable hazardous waste in a proper configuration, in violation of 25 Pa. Code § 264a.173(3).

COUNT IV

(Failure to Conduct Weekly Inspections of Hazardous Waste Storage Areas)

36. The allegations of Paragraphs 1 through 35 of this Consent Agreement are incorporated herein by reference.

37. Pursuant to 40 C.F.R. § 264.174, as incorporated by reference into 25 PA Code § 264a.1, the owner or operator of a hazardous waste storage area must inspect areas where hazardous waste containers are stored, at least weekly, to look for leaking containers and for deterioration of containers caused by corrosion or other factors.
38. Respondent failed to inspect all areas at the Facility where containers of hazardous wastes were stored at least weekly, during the following periods, for a total of five missed weeks: 10/28/05 - 11/11/05, 11/23/05 - 12/23/05, and 2/23/06 - 3/10/06.
39. Respondent violated 25 PA Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.174, by failing to conduct weekly inspections of hazardous waste storage areas.

COUNT V

(Failure to train personnel managing hazardous waste)

40. The allegations of Paragraphs 1 through 39 of this Consent Agreement are incorporated herein by reference.
41. Pursuant to 40 C.F.R. § 264.16(a), as incorporated by reference into 25 Pa. Code § 264a.1, the owner or operator of a hazardous waste treatment, storage or disposal facility must ensure that facility personnel successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the RCRA regulations. The training must include instruction in hazardous waste management procedures and emergency response procedures, as described in 40 C.F.R. § 264.16(a)(3). Pursuant to 40 C.F.R. § 264.16(c), which is also incorporated by reference into 25 Pa. Code § 264a.1, Facility personnel must take part in an annual review of the initial training required by this regulation.
42. From at least January 30, 2002 through September 10, 2008, Respondent failed to ensure that all Facility personnel with jobs relating to hazardous waste management received initial or refresher training, as required by 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16.
43. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16, by failing to provide the required training to all Facility personnel with jobs relating to hazardous waste management.

III. CIVIL PENALTY

44. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this CA, Respondent consents to the assessment of a civil penalty in the

amount of **EIGHTY EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$88,500.00)**, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CA/FO, fully executed by the parties, signed by the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest in connection with such civil penalty as described in this CA/FO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CA/FO is mailed or hand-delivered to Respondent.

45. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of the violations and good faith efforts of the Respondent to comply, as provided for in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3).

46. Payment of the civil penalty amount set forth in paragraph 44, above, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- A. All payments by Respondent shall reference Respondents name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2009-0237;
- B. All checks shall be made payable to **United States Treasury**;
- C. All payments made by check and sent by regular mail shall be addressed to:

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

Contact: Eric Volck 513-487-2105

- D. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

- E. All payments made by electronic wire transfer shall be directed to:

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

Field Tag 4200 of the Fedwire message should read:
D 680107027 Environmental Protection Agency

- F. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: John Schmid 202-874-7026 or REX, 1-866-234-5681

- G. Additional payment guidance is available at:

http://www.epa.gov/ocfo/linservices/make_a_payment.htm

- H. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

- I. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Natalie L. Katz
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

47. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondents failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
48. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest 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).
49. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPAs *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

50. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent for more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

IV. COMPLIANCE ORDER

51. Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and Section 9006 of RCRA, 42 U.S.C. § 6991e, as applicable, Respondent is hereby ordered to perform the following compliance tasks immediately upon the effective date of this Compliance Order, except as otherwise expressly provided:
- (a) Cease storing hazardous waste at the Facility except in accordance with a permit or interim status obtained pursuant to RCRA Section 3005, 42 U.S.C. § 6925, and 25 Pa. Code § 270a., or in accordance with the generator accumulation requirements of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34.
 - (b) Keep containers holding hazardous waste closed during storage at the Facility while it is not necessary to add or remove waste, as required by 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a).
 - (c) Store containers of nonreactive, nonignitable hazardous waste in a proper configuration, with aisle spacing that ensures access for inspection, as required by 25 Pa. Code § 264a.173(3).
 - (d) Conduct weekly inspections of hazardous waste storage areas, as required by 25 PA Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.174.
 - (e) Ensure that all Facility personnel with jobs relating to hazardous waste management receive initial or refresher training, as required by 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.16.
52. Within sixty (60) days after the effective date of this Compliance Order, submit to EPA a certification in the form set forth in Paragraph 54, below, by a responsible corporate officer, certifying whether or not the requirements of Paragraph 51 of this CA have been completed by Respondent.
53. Information or documents required to be submitted to EPA under this Compliance Order shall be sent to:

Andrew Ma (3LC70)
Environmental Scientist
Office of Land Enforcement
United States Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029;

and

Natalie L. Katz (3RC30)
Sr. Assistant Regional Counsel
United States Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029.

54. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Compliance Order which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirements of this Compliance Order shall be certified by a responsible corporate officer of the Respondent. A responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

The certification of the responsible corporate officer required above shall be in the following form:

I certify that the information contained in or accompanying this [type of submission] is true, accurate and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure the qualified personnel properly gather and evaluate 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 fines and imprisonment for knowing violations.

Signature: _____
Name: _____
Title: _____

V. OTHER APPLICABLE LAWS

- 55. Nothing in this CA/FO shall relieve Respondent of any duties or obligations otherwise imposed upon it by applicable Federal, State or local laws or regulations.

VI. RESERVATION OF RIGHTS

- 56. This CA/FO resolves only EPA’s claims for civil penalties for the specific violations of RCRA Subtitle C which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CA/FO.

VII. FULL AND FINAL SATISFACTION

- 57. This settlement shall constitute full and final satisfaction of Complainant’s claims for civil penalties for the specific violations set forth in the CA/FO.

VIII. PARTIES BOUND

- 58. This CA/FO shall apply to and be binding upon EPA, Respondent, and Respondent’s officers, employees, agents, successors and assigns. By his/her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized to enter into this Agreement on behalf of Respondent and to bind Respondent to the terms and conditions of this CA/FO.

IX. EFFECTIVE DATE

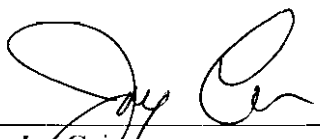
59. The effective date of this CA/FO is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or his designee, is filed with the Regional Hearing Clerk.

X. ENTIRE AGREEMENT

60. This CA/FO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CA/FO.

For the Respondent: Ulbrich Delta LLC

Date: 9/23/09

By: 
Jay Cei
Chief Financial Officer

For the Complainant: U.S. Environmental Protection Agency, Region III

Date: _____

By: _____
Natalie L. Katz
Senior Assistant Regional Counsel

The Land and Chemicals Division, United States Environmental Protection Agency - Region III, recommends that the Regional Administrator of the U.S. EPA Region III or his designee issue the accompanying Final Order.

Date: _____

By: _____
Abraham Ferdas, Director
Land and Chemicals Division

IX. EFFECTIVE DATE

59. The effective date of this CA/FO is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or his designee, is filed with the Regional Hearing Clerk.

X. ENTIRE AGREEMENT

60. This CA/FO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CA/FO.

For the Respondent:

Ulbrich Delta LLC

Date: 9/23/09

By: Jay Cei
Jay Cei
Chief Financial Officer

For the Complainant:

U.S. Environmental Protection Agency, Region III

Date: 9/24/09

By: Natalie L. Katz
Natalie L. Katz
Senior Assistant Regional Counsel

The Land and Chemicals Division, United States Environmental Protection Agency - Region III, recommends that the Regional Administrator of the U.S. EPA Region III or his designee issue the accompanying Final Order.

Date: 9/24/09

By: Abraham Ferdas
Abraham Ferdas, Director
Land and Chemicals Division

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, PA 19103-2029

SEP 29 AM 10:14
RECEIVED

IN THE MATTER OF:

Ulbrich Delta LLC
121 Domorah Drive
Montgomeryville, PA 18936

RESPONDENT

) CERTIFICATE OF SERVICE
)
) U.S. EPA Docket Number
) RCRA-03-2009-0237
)
) Proceeding under Section 3008
) of the Resource Conservation and
) Recovery Act, as amended,
) 42 U.S.C. § 6928
)

I certify that on the date noted below, I sent by Overnight Delivery Service, a copy of the Consent Agreement and Final Order, **In the Matter of: Ulbrich Delta LLC, U.S. EPA Docket Number RCRA-03-2009-0237**, to the persons and addresses listed below.

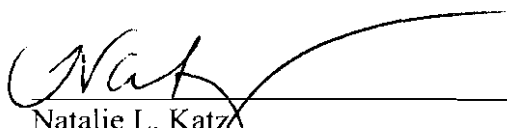
Jay Cei, CFO
Ulbrich Delta LLC
57 Dodge Avenue
North Haven, CT 06473

Phil Carey and
Ted Davis
Ulbrich Delta LLC
121 Domorah Drive
Montgomeryville, PA
18936

Steven A. Hann
Hamburg, Rubin, Mullin,
Maxwell & Lupin
375 Morris Road
PO Box 1479
Lansdale, PA 19446-0773

The original Consent Agreement and Final Order, plus one copy, were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III.

Dated: September 29, 2009



Natalie L. Katz
Senior Assistant Regional Counsel
Office of Regional Counsel
EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029