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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 Broadway  
New York, New York 10007-1866

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.11  
2013 FEB 28 P 3:23  
REGIONAL HEARING  
CLERK

**IN THE MATTER OF:**

Zotos International, Inc.  
300 Forge Avenue  
Geneva, New York 14456

Respondent

**CONSENT AGREEMENT AND  
FINAL ORDER**  
Docket No. CWA-02-2012-3309

**CONSENT AGREEMENT**

**A. STATUTORY AUTHORITY**

1. This Consent Agreement and Final Order ("CA/FO") is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 309(g)(2)(A) of the Clean Water Act ("Act"), as amended, 33 U.S.C. §1319(g)(2)(A). The Administrator has delegated this authority to the Regional Administrator of EPA, Region 2, who in turn has delegated it to the Director, Division of Enforcement and Compliance Assistance of EPA, Region 2. In accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" ("CROP"), 40 Code of Federal Regulations Part 22, the Director, Division of Enforcement and Compliance Assistance hereby issues this CA/FO.

**B. STIPULATIONS AND FINDINGS**

Upon Consent of the Parties by their attorneys or other authorized officials, the parties stipulate:

1. On 9/21/2012 EPA issued an Administrative Complaint, Docket No. CWA-02-2012-3309, pursuant to Section 309(g)(2)(A) of the Act, alleging that Respondent was in violation of Sections 307 and 308 of the Act, 33 U.S.C. §§1317 and 1318, and proposing a penalty of \$7,500. In the Administrative Complaint, EPA alleged that the Respondent failed to timely submit to EPA a Baseline Monitoring Report and a 90-day Compliance Report which were due on November 30, 2009 and May 30, 2010, respectively.

2. Respondent admits the jurisdictional allegations in the Administrative Complaint as set forth above and neither admits nor denies the specific violations alleged in the Administrative Complaint.

3. Respondent knowingly and explicitly waives its right to a hearing under Section 309(g)(2)(A) of the Act, and to appeal this order under Section 309(g)(8) of the Act, 33 U.S.C. §1319(g)(8).

### **C. SETTLEMENT TERMS**

1. A Class I Civil Penalty of Two Thousand Two Hundred Dollars (\$2,200) is hereby assessed against Respondent. Respondent shall pay such penalty as follows.

#### **Payment Terms**

1. Respondent shall pay a civil penalty in the amount of Two Thousand Two Hundred Dollars (\$2,200) to the "Treasurer of the United States of America."
2. Payments can be made by debit/credit card, check, or electronically. Electronic payments fall into two categories: wires and Automated Clearinghouse (ACH). Wires are same day and more costly. ACH is the next day or any future scheduled day and is less expensive. Please note that wires and ACH payments must be conducted through the sender's bank. The checks (cashier's or certified checks only) shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Payment methods are described below:

<b>Debit and Credit Card Payments</b>	<a href="https://www.pay.gov/paygov/">https://www.pay.gov/paygov/</a>		
<b>Checks from U.S. Banks</b>			
<b>Finance Center Contacts: Craig Steffen (513-487-2091)</b>	<b>Check Payments – Fines and Penalties</b>	<b>US Environmental Protection Agency Fines and Penalties Cincinnati Finance Center PO Box 979077 St. Louis, MO 63197-9000</b>	<b>U.S. Bank Government Lockbox 979077 US EPA Fines &amp; Penalties 1005 Convention Plaza SL-MO-C2-GL St. Louis, MO 63101 314-418-1028 Contact: Natalie Pearson 314-418-4087</b>
<b>Checks drawn on foreign banks with no USA branches (any currency)</b>	<b>Cincinnati Finance US EPA, MS-NWD 26 W ML King Drive Cincinnati OH 45268-0001</b>		
<b>Wire Transfers (any currency)</b>	<b>Federal Reserve Bank of New York ABA: 021030004 Account Number: 68010727 SWIFT address: FRNYUS33 33 Liberty Street New York NY 10045</b>		

	<b>Field Tag 4200 of the Fedwire message should read: "D 68010727 Environmental Protection Agency"</b>
<b>ACH - Automated Clearinghouse for receiving US currency Finance Center Contacts:</b>	<b>US Treasury REX / Cashlink ACH Receiver ABA: 051036706 Account Number: 310006, Environmental Protection Agency CTX Format Transaction Code 22 – checking</b>
<b>John Schmid (202-874-7026)</b>	<b>Physical location of US Treasury facility: 5700 Rivertech Court Riverdale MD 20737</b>
<b>REX (Remittance Express), 1-866-234-5681</b>	

**ON LINE PAYMENT:**

There is now an On Line Payment Option, available through the Department of Treasury. This payment option can be accessed from the information below: WWW.PAY.GOV. Enter sfo 1.1 in the search field. Open form and complete required fields.

Respondent shall also send copies of this payment to each of the following:

Douglas McKenna, Chief  
Water Compliance Branch  
Division of Enforcement and Compliance Assistance  
U.S. EPA, Region 2  
290 Broadway, 20th Floor  
New York, New York 10007-1866

and

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007.

The payment must be received at the above address on or before forty-five (45) calendar days after the date of filing with the Regional Hearing Clerk of this Final Order (the date by which payment must be received shall hereafter be referred to as the "due date").

3. Failure to pay the penalty in full according to the above provisions will result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for Collection.
4. Further, if the payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of

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\$15.00 will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

5. In addition, pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9), if payment is not received by the due date, a quarterly nonpayment penalty will be imposed for each calendar quarter during which such nonpayment persists. The quarterly nonpayment penalty is 20% of the aggregate amount of penalties and quarterly nonpayment penalties, which are unpaid as of the beginning of such quarter. You also may be required to pay attorneys fees and costs for collection proceedings in connection with nonpayment.
6. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from Respondent's federal or New York State taxes.

#### **D. GENERAL PROVISIONS**

1. Issuance of the CA/FO does not constitute a waiver by EPA of its right to enforce legal requirements underlying this penalty assessment, either administratively or judicially pursuant to Sections 309(a), (b) and (c). Pursuant to Section 309(g)(7) of the Act, 33 U.S.C. §1319(g)(7), issuance or compliance with this CA/FO does not exempt Respondent from responsibility to comply with all requirements of the Act and of any legal order or permit issued thereunder.

2. Respondent's execution of this CA/FO and payment of the penalty assessed by this CA/FO shall constitute a complete and final release by EPA of the Respondent of any civil penalties under Section 309 of the Act, 33 U.S.C. §1319, for violations alleged in the Administrative Complaint.

3. Respondent knowingly and explicitly waives its rights under Sections 309(g)(2) and (8) of the Act, 33 U.S.C. §§1319(g)(2) and (8), to a hearing on this penalty assessment, and to judicial review of this penalty assessment.

4. Respondent waives any right it may have pursuant to 40 CFR §22.08 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator, or Deputy Regional Administrator, where the purpose of such discussion, memorandum or communication is to persuade such officials to accept and issue this CA/FO.

5. Each undersigned representative of the parties to this CA/FO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CA/FO to execute and legally bind that party to it.

6. Each party shall bear its own costs and attorneys' fees in connection with the action resolved by this CA/FO.

**Effective Date**

The effective date of this order shall be the date the fully executed order is filed with the Regional Hearing Clerk.

For Respondent, Zotos International, Inc.:

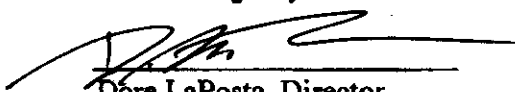
Date: 10/16/2012



Anthony M. Perdigao, MBB  
Vice President Operations & Chief Sustainability  
Officer  
Zotos International, Inc.

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

Date: 2/22/13

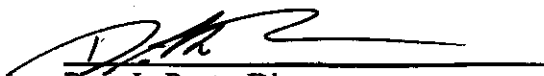


Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency  
Region 2

**VII. FINAL ORDER**

The Regional Administrator of the United States Environmental Protection Agency, Region 2, vested by authority delegated by the Administrator of the United States Environmental Protection Agency ("EPA") and having further re-delegated such authority to the Director of the Division of Enforcement and Compliance Assistance, Region 2, EPA, who hereby ratifies the foregoing Consent Agreement. The Agreement entered into by the parties is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2, New York, New York.

DATED: 2/22/13



Dore LaPosta, Director  
Division of Enforcement and Compliance  
Assistance  
U.S. Environmental Protection Agency, Region 2  
290 Broadway  
New York, NY 10007-1866

