



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

AUG 20 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

LR-8J

James L. Hager, President
WRR Environmental Services Company, Inc.
5200 Ryder Road
Eau Claire, Wisconsin 54701

Re: Consent Agreement and Final Order
WRR Environmental Services Company, Inc.
EPA ID No.: WID990829475 Docket No: **RCRA-05-2009-0015**

Dear Mr. Hager:

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: **AUG 20 2009**

Please pay the civil penalty in the amount of \$20,000 in the manner prescribed in paragraphs 72 and 73 of the CAFO, and reference all checks with the number,

BD 2750959R008, and docket number RCRA-05-2009-0015.

Your first payment is due on within 60 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,

Willie H. Harris, P.E.
Chief, RCRA Branch
Land and Chemicals Division

Enclosures

cc: Mr. Steven Sisbach, Chief, EIEM, WDNR
Ms. Patricia Chabot, EIEM, WDNR
Ms. Jill Schoen, WCR, WDNR

bcc: Peter Felitti, ORC (C-14J)(w/CAFO)
Michael Beedle LR-8J (w/CAFO)
Section Copy (w/CAFO)
Official File (w/CAFO)

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:)
)
WRR Environmental Services)
Company, Inc.)
5200 Ryder Road)
Eau Claire, Wisconsin)
WID 990 829 475)
)
Respondent)
_____)

DOCKET NO. RCRA-05-2009-0015

Proceeding to Commence and Conclude
an Action to Assess a Civil Penalty
Under Section 3008(a) of the Resource
Conservation and Recovery Act,
42 U.S.C. § 6928(a)

RECEIVED
AUG 20 2009

Consent Agreement and Final Order

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

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 Wisconsin pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Respondent is WRR Environmental Services Company, Inc. (WRR or Respondent), a corporation doing business in the State of Wisconsin.

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 2002(a)(1), 3006(b), and 3008 of RCRA; 42 U.S.C. §§ 6912(a)(1), 6926(b), and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations or alleged violations 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 – 6939e. and the regulations at 40 C.F.R. §§ 260.1 – 279.82.

Statutory and Regulatory Background

12. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing facilities that treat, store, and dispose of hazardous waste, pursuant to section 3004 of RCRA, 42 U.S.C. § 6924.

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 Wisconsin final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg. 3783 (January 31, 1986). The Administrator of U.S. EPA granted final authorization to administer additional RCRA and certain HSWA requirements on June 6, 1989 (54 Fed. Reg. 22278); January 22, 1990 (54 Fed. Reg. 48243); April 24, 1992 (57 Fed. Reg. 15029); August 2, 1993 (58 Fed. Reg. 31344); and October 4, 1994 (59 Fed. Reg. 39971). The U.S. EPA-authorized Wisconsin regulations are codified at Wisconsin Administrative Code (WAC) Chapter NR 600-690. See also 40 C.F.R. § 272.2500 *et seq.*

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. 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, 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 \$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 WAC NR 600.03(170) and 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15) and is the owner and operator of a licensed Treatment and Storage Facility located at 5200 Ryder Road, Eau Claire, Wisconsin (the facility).

17. On June 12, 2007 to June 14, 2007, U.S. EPA conducted an inspection of the facility.

18. The facility consists of land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

19. At all times relevant to this Complaint, Respondent managed wastes at its facility which were solid wastes, as defined in WAC NR s. 600.03(206) and 40 C.F.R. § 261.2, and/or which were hazardous waste as defined in WAC NR s. 605.04 and 40 C.F.R. 261.3.

20. The Wisconsin Department of Natural Resources (WDNR) issued a final approval of Respondent's Feasibility and Plan of Operation Report (FPOR) on August 14, 2003. This final determination gives Respondent a hazardous waste operating license for the treating and storing of hazardous waste at its facility. On January 13, 2004, WDNR issued an operating license modification determination (MDFPOR). Additional modifications were issued by the WDNR on July 20, 2005, January 7, 2008, November 5, 2008 and February 18, 2009.

21. Pursuant to FPOR Condition 1, Respondent shall comply with the approval and all applicable requirements of WAC NR 600 through 690. In the case of any discrepancies in the approval conditions, the Wisconsin Statutes or the Wisconsin Administrative Code shall take precedence over the FPOR.

22. The license identified 45 storage tanks, 20 container storage areas, and a containment building (Ash Storage Building) for the storage of hazardous waste. Container storage areas were identified as Building E-I, E-II, Dock 6, and Barrel Storage Units P-1 to P-17.

23. Tank Storage Areas were identified as Tank Farms E-I, E-II, E-II South, and Process Tanks.

24. Respondent is subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921-6930, or the analogous Wisconsin regulations as part of the applicable state hazardous waste management program for the state of Wisconsin or both.

COUNT I

25. Complainant incorporates paragraphs 1 through 24 as though set forth in this paragraph.

26. Pursuant to preparedness and prevention requirements of WAC NR 630.21(1), facilities shall be designed, constructed, maintained and operated to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden discharge of hazardous waste or hazardous waste constituents to the air, land or surface water which could be harmful to human health or the environment. [40 CFR 264.31]

27. On or about June 22, 2007, Respondent had a fire that destroyed licensed container and tank storage area EII, the containment storage building, the fuel blending processing area and processing tanks; and the dry cleaning solvent reclamation unit.

28. The fire and fire suppression efforts resulted in the **offsite** release of hazardous waste and hazardous waste constituents.

29. U.S. EPA alleges that the facility was not designed, constructed, maintained and operated to minimize the possibility of a fire, explosion, or discharge of hazardous waste and

constituents. These conditions could be harmful to human health and/or the environment violating WAC NR 630.21(1). U.S. EPA alleges that Respondent failed to comply with the preparedness and prevention requirements of WAC NR 630.21(1), thereby violating Subchapter III of RCRA.

COUNT 2:

30. Complainant incorporates paragraphs 1 through 24 as though set forth in this paragraph.

31. Pursuant to preparedness and prevention requirements of WAC NR 630.21(2)(d), all facilities shall be equipped with extinguishing agents with adequate volume and adequate delivery systems. [40CFR 264.32(d)]

32. On or about June 22, 2007, Respondent had a fire that destroyed licensed container and tank storage area EII, the containment storage building, the fuel blending processing area and processing tanks; and the dry cleaning solvent reclamation unit.

33. U.S. EPA alleges that Respondent was not equipped with extinguishing agents with adequate volume and adequate delivery systems violating WAC NR 630.21(2)(d). U.S. EPA alleges that Respondent failed to comply with the preparedness and prevention requirements of WAC NR 630.21(2)(d), thereby violating Subchapter III of RCRA.

COUNT 3:

34. Complainant incorporates paragraphs 1 through 24 as though set forth in this paragraph.

35. Pursuant to the management of containers requirement of WAC NR 640.11(3), a container holding hazardous waste may not be opened, handled or stored in a manner which may rupture the container or cause it to leak. [40 CFR 264.173(b)]

36. During the inspection, two drums had liquid on top of them during the inspection. The front-end loader mounted drum grabber dented at least four drums. The drum grabber had historic waste staining on it.

37. U.S. EPA alleges that Respondent was handling containers in manner that which may rupture or cause a container to leak in violation of WAC NR 640.11(3). U.S. EPA alleges that Respondent failed to comply with the management of containers requirements of WAC NR 630.21(1), thereby violating Subchapter III of RCRA.

COUNT 4:

38. Complainant incorporates paragraphs 1 through 24 as though set forth in this paragraph.

39. Pursuant to special requirements for incompatible wastes of WAC NR 640.15(1), containers holding a hazardous waste which is incompatible with any waste or other materials stored nearby in other containers shall be separated from other wastes or materials or protected from them by means of a dike, berm, wall or other device. [40 CFR 264.177(c)]

40. Flammable liquid was being stored with oxidizers in Shed P-8 during the inspection. Oxidizers and flammable liquids are incompatible wastes. The wastes were not separated.

41. U.S. EPA alleges that Respondent was storing incompatible wastes in nearby containers without separating the wastes by means of a dike, berm, wall or other device violating WAC NR 640.15(1). U.S. EPA alleges that Respondent failed to comply with the special requirements for incompatible wastes of WAC NR 640.15(1), thereby violating Subchapter III of RCRA.

COUNT 5:

42. Complainant incorporates paragraphs 1 through 24 as though set forth in this paragraph.

43. Pursuant to special requirements for incompatible wastes of WAC NR 640.15(2)(b), hazardous waste may not be placed in a container that holds incompatible waste or material. [40 CFR 264.177(a)]

44. Respondent was storing sulfuric acid and sodium hydroxide in the same drum. These chemicals are incompatible waste material.

45. U.S. EPA alleges that Respondent had placed hazardous waste that was incompatible in the same container violating WAC NR 640.15(2)(b). U.S. EPA alleges that Respondent failed to comply with the special requirements for incompatible wastes of WAC NR 640.15(2)(b), thereby violating Subchapter III of RCRA.

COUNT 6:

46. Complainant incorporates paragraphs 1 through 24 as though set forth in this paragraph.

47. Pursuant to general tank operating requirements of WAC NR 645.10(2), the owner or operator shall use appropriate controls and practices to prevent spills and overflows from tank or secondary containment systems. [40 CFR 264.194(b)]

48. Tank K was leaking during the inspection. Spills and overflows were observed on several of the tanks in EII tank storage area including Tanks: T/U, V, W, X, Y, L and M.

49. U.S. EPA alleges that Respondent was not using appropriate controls and practices to prevent spills and overflows from tanks violating WAC NR 645.10(2). U.S. EPA alleges that

Respondent failed to comply with the general tank operating requirements of WAC NR 645.10(2), thereby violating Subchapter III of RCRA.

COUNT 7:

50. Complainant incorporates paragraphs 1 through 24 as though set forth in this paragraph.

51. Pursuant to the condition of containers requirement of WAC NR 640.09, hazardous waste shall be managed in containers that are in good condition. [40 CFR 264.171]

52. Pursuant to conditions for containers of FPOR 19, hazardous shall only be stored in containers meeting U.S. DOT (U.S. Department of Transportation) specifications.

53. An organic peroxide waste was being stored in a container that did not meet U.S. DOT specifications due to the obvious compromised condition of the container from humidity, moisture, and mold damage. At least 4 containers were obviously damaged by the drum grabber.

54. U.S. EPA alleges that Respondent was storing hazardous waste in containers in poor condition and that did not meet U.S. DOT specifications violating WAC NR 640.09 and FPOR 19. U.S. EPA alleges that Respondent failed to comply with the condition of containers requirement of WAC NR 640.09 and FPOR 19, thereby violating Subchapter III of RCRA.

COUNT 8:

55. Complainant incorporates paragraphs 1 through 24 as though set forth in this paragraph.

56. Pursuant to secondary containment requirements of FPOR 30, WRR shall ensure that all secondary containment structures identified in Table D-2 of the FPOR meet the applicable performance standards in WAC NR 645.09 (4), (5), (6), and (7) and 640.13, Wis. Adm. Code. At a minimum, the containment structures must be certified to meet the minimal

standards set forth in WAC NR 645.09 and 640.13, including: free of gaps and cracks, and provided with an impermeable interior coating.

57. The interior coating of the secondary containment in the tank farms (EI and EII) had gaps and cracks and was not impermeable.

58. U.S. EPA alleges that Respondent's secondary containment was not free of gaps, cracks and interior coating was not impermeable violating of FPOR 30. U.S. EPA alleges that Respondent failed to comply with the secondary containment requirements of FPOR 30, thereby violating Subchapter III of RCRA.

COUNT 9:

59. Complainant incorporates paragraphs 1 through 24 as though set forth in this paragraph.

60. Pursuant to containment building requirements of WAC NR 655.05(2)(a) containment buildings shall be completely enclosed, self supporting structures that are designed and constructed of manmade materials of sufficient strength and thickness to support the building, the waste contents and any personnel and heavy equipment that operate within the unit and to prevent failure due to pressure gradients, settlement, compression, or uplift, physical contact with the waste to which they are exposed; climatic conditions; and the stresses of daily operation, including the movement of equipment and contact of equipment within the containment building walls. Pursuant to WAC NR 655.05(2)(c) a containment building must be protected from surface water run-on by the structure or in some other manner. 40 CFR 264.1101(a)(1). [40 CFR 264.1101(a)(1)]

61. The licensed containment building was not completely enclosed and was in poor shape with holes in its walls and visible areas where rain water could drain or run into the building.

62. U.S. EPA alleges that Respondent's containment building was not completely enclosed, constructed of material that would prevent failure due to contact with heavy equipment with the containment building walls, and was not protected from surface water run-on violating WAC NR 655.05(2)(a) and (c). U.S. EPA alleges that Respondent failed to comply with containment building requirements of WAC NR 655.05(2)(a) and (c), thereby violating Subchapter III of RCRA.

COUNT 10:

63. Complainant incorporates paragraphs 1 through 24 as though set forth in this paragraph.

64. Pursuant to containment building monitoring and inspection requirements of WAC NR 655.08(2), while a containment building is in operation, it shall be inspected weekly to detect evidence of any deterioration, malfunctions or improper operation of run-on and run-off control systems. Pursuant to general inspections requirements of WAC NR 630.15(4), the owner or operator shall record inspections in an inspection log or summary. [40 CFR 264.1101(c)(4), 40 CFR 264.16(d)]

65. U.S. EPA alleges that Respondent was not performing weekly inspections and was not recording inspections of the containment building for at least one year prior to the June 12-14, 2007 U.S. EPA inspection violating WAC NR 655.08(2) and NR 630.15(4). U.S. EPA alleges that Respondent failed to comply with containment building monitoring, inspection, and recording requirements of WAC NR 655.08(2) and NR 630.15(4), thereby violating Subchapter III of RCRA.

COUNT 11:

66. Complainant incorporates paragraphs 1 through 24 as though set forth in this paragraph.

67. Pursuant to the January 13, 2004, operating license modification preliminary determination MDFPOR 3, Container Storage Sheds P-1 to P-17 shall remain accessible on two sides. Pursuant to the container aisle space requirement of WAC NR 640.08(2), adequate aisle space shall be maintained to allow for the unobstructed movement of personnel conducting inspections. [40 CFR 264.35]

68. During the inspection, sheds P-2 and P-17 were observed to not have adequate aisle space and did not have access on two sides.

69. The operating license application diagrams for the storage sheds indicate that sheds P 1-10, and P 15-17 do not have doors on two sides for access.

70. U.S. EPA alleges that Respondent did not have access on two sides for storage sheds P 1-10 and P 15-17, and did not have adequate aisle space for sheds P-2 and P-17 violating MDFPOR 3 and WAC NR 640.08(2). U.S. EPA alleges that Respondent failed to comply with the container shed accessibility on two sides requirement of MDFPOR 3, and adequate aisle space requirement of WAC NR 640.08(2) thereby violating Subchapter III of RCRA.

Civil Penalty

71. 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 \$20,000. In determining the penalty amount, Complainant took into account the seriousness of the violation, Respondent's ability to pay, any good faith efforts to comply with the applicable requirements 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.

72. Within 60 days after the effective date of this CAFO, Respondent must pay a \$5,000 civil penalty for the RCRA violations. A second payment of \$5,000, with an annual interest rate of 3%, is due on December 11, 2009. A third payment of \$5,000 is due on March 12, 2010. A fourth payment of \$5,000, with an annual interest rate of 3%, is due on June 11, 2010.

Respondent must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

for checks sent by regular U.S. Postal Service mail

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

for checks sent by express mail

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

The check must state In the Matter of: WRR Environmental Services, the docket number of this CAFO and the billing document number, which will be provided.

by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message is
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state In the Matter of:

WRR Environmental Services, the docket number of this CAFO, and the billing document number.

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 Public Forms field.
Open form and complete required fields.

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

Regional Hearing Clerk (E-13J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

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

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

75. 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.

Supplemental Environmental Project

76. Respondent must complete three supplemental environmental projects (SEPs) designed to protect the environment or public health by removing waste from a nearby river and conducting two collections of house hold hazardous waste (Clean Sweeps).

77. Respondent must complete the SEPs as follows:

- a. The Lowes Creek Tire Cleanup Project will commence by September 2010 and is estimated that Respondent's activities will be a 4 day project that has a value of \$35,655. This value could be higher depending on conditions that would change the cleanup plan. Respondent will supply labor, equipment and expertise to remove tires from the stream bottom and loose tires from the stream bank. All work will be done under the guidance of the Wisconsin DNR. If this project is not commenced by September 30, 2010, Respondent shall pay U.S. EPA a penalty of \$27,708. This amount will be instead of any of penalty amounts listed in Paragraph 86 for this SEP. Payment shall be made pursuant to the requirements of Paragraphs 71 to 74 and shall be due in two installments. The first payment of \$13,854 is due by November 1, 2010. The second payment of \$13,854, with an annual interest rate of 3%, is due on May1, 2011.
- b. The Clean Sweeps SEP will be conducted twice, once in November 2009 and again in November 2010. Respondent will supply the labor, transportation, proper packaging material and repackaging of material for offsite shipment. Respondent will pay 100% of the disposal costs. Respondent will also provide administrative services such as proper manifesting, insurance (liability / Pollution Control) and safety. This Clean Sweep is expected to cost \$17,058 each for a total of \$34,116.

78. Respondent must spend at least a total of \$69,771 on the SEPs.

79. Respondent certifies that it is not required to perform or develop the SEPs 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 SEPs in any other enforcement action.

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

81. Respondent must submit a separate SEP completion report for each SEP to U.S. EPA within 45 days after completion of the SEP. This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO; and
- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

82. Respondent must submit all notices and reports required by this CAFO by first class mail to Michael Beedle of the RCRA Branch.

83. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

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.

84. Following receipt of the SEP completion report described in paragraph 81, 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 45 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 86.

85. If U.S. EPA exercises option b, above, Respondent may object in writing to the deficiency notice within 20 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 86, below.

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

- a. If Respondent has spent less than the amount set forth in paragraph 78, above, Respondent must pay a stipulated penalty equal to the difference between the amount it spent on the SEPs and the amount set forth in paragraph 78.
- b. If Respondent has completed a SEP, but a SEP is not satisfactory, Respondent must pay \$2,500, in addition to any penalty required under subparagraph a, above.
- c. If Respondent halts or abandons work on a SEP without prior U.S. EPA approval, Respondent must pay a stipulated penalty of \$5,000, in addition to the penalty required under subparagraph a, above. Such penalties will accrue as of the date for completing the SEP or the date performance ceases, whichever is earlier.
- d. If Respondent fails to comply with the schedule in paragraph 77 for

implementing a SEP without prior U.S. EPA approval, fails to submit timely the SEP completion report, or fails to submit timely any other required report, Respondent must pay stipulated penalties for each failure to meet an applicable milestone, as follows:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$100	1 st through 14 th day
\$250	15 through 30 th day
\$500	31 st day and beyond

These penalties will accrue from the date Respondent was required to meet each milestone until it achieves compliance with the milestone.

87. The U.S. EPA's determination of whether Respondent satisfactorily completed the SEPs will bind Respondent.

88. Respondent must pay any stipulated penalties within 30 days of receiving U.S. EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 72, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

89. Any public statement that Respondent makes referring to the SEPs must include the following language, "WRR Environmental Services undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against WRR Environmental Services for alleged violations of RCRA."

90. If an event occurs which causes or may cause a delay in completing of any SEP as required by this CAFO:

- a. Respondent must notify the U.S. EPA in writing within ten days after learning of an event which caused or may cause a delay in completing the SEP. The notice must describe the anticipated length of the delay, its cause(s), Respondent's past and proposed actions to prevent or minimize the delay, and a schedule to carry out those actions. Respondent must take all reasonable actions to avoid or minimize any delay. If Respondent fails to notify U.S. EPA according to this paragraph, Respondent will not receive an extension of time to complete the SEP.

- b. If the parties agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, the parties will stipulate to an extension of time no longer than the period of delay.
- c. If the U.S. EPA does not agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, U.S. EPA will notify Respondent in writing within 10 days after receipt of notice from the Respondents of its decision and any delay in completing the SEP will not be excused.
- d. Respondent has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEP. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph b, above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

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

General Provisions

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

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

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

95. Respondent agrees that as of August 15, 2009, the container storage area known as the E-I building will only be used for the storage of non-ignitable waste. Respondent can continue to operate the thin film evaporator and the F-1 fractionation column in the E-I building and process ignitable wastes provided that there is no storage of such wastes in the E-I building in connection with these operations.

REGIONAL HEARING CLERK
 U.S. ENVIRONMENTAL PROTECTION AGENCY
 REGIONAL OFFICE OF REGIONAL COUNSEL
 AUG 11 2009

U.S. ENVIRONMENTAL PROTECTION AGENCY
 REGIONAL OFFICE OF REGIONAL COUNSEL
 AUG 11 2009

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

97. The terms of this CAFO bind Respondent, its successors, and assigns.

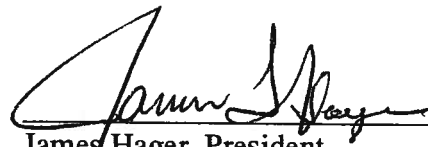
98. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

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

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

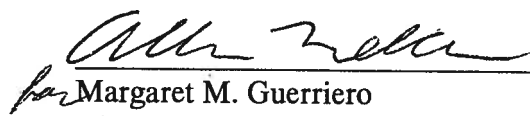
WRR Environmental Services Company, Inc., Respondent

8/7/09
Date


James Hager, President
WRR Environmental Services Company,
Inc.

United States Environmental Protection Agency, Complainant

8/14/09
Date


for Margaret M. Guerriero
Director
Land and Chemicals Division

**U.S. ENVIRONMENTAL
PROTECTION AGENCY**

AUG 10 2009

**OFFICE OF REGIONAL
COUNSEL**

RECEIVED
AUG 20 2009

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**

In the Matter of:
WRR Environmental Services
Docket No. RCRA-05-2009-0015

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.

8/19/09
Date

Walter W. Kovalick
for
Bharat Mathur
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

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AUG 20 2009
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

CASE NAME:

DOCKET NO: RCRA-05-2009-0015

CERTIFICATE OF SERVICE

I hereby certify that today I filed the original of this **Complaint** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed via Certified Mail, Return Receipt Requested to the following:

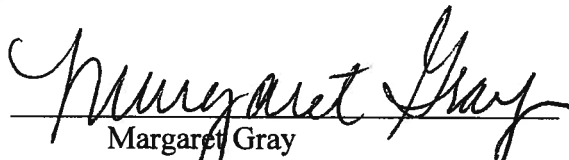
James L. Hager, President
WRR Environmental Services Company, Inc.
5200 Ryder Road
Eau Claire, Wisconsin 54701

Return Receipt #

And via First Class Mail to:

Steven Sisbach, Section Chief
Enforcement, Investigations & Emergency Management
Wisconsin Department of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Dated: 8/20/09



Margaret Gray
Administrative Program Assistant
United States Environmental Protection Agency
Land and Chemicals Division -RCRA Branch
77 W. Jackson Boulevard
Chicago, IL 60604-3590
(312) 353-5028

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AUG 20 2009

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**