



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

SEP 21 2012

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5934 9519

Mr. Anthony M. Perdigao, MBB
Vice President Operations & Chief Sustainability Officer
Zotos International, Inc.
300 Forge Avenue
Geneva, New York 14456-1294

Re: Notice of Proposed Assessment of a Civil Penalty
Docket No. CWA-02-2012-3309
Zotos International, Inc.

Dear Mr. Perdigao:

Enclosed is an Administrative Complaint ("Complaint") which the U.S. Environmental Protection Agency ("EPA") is issuing to you as a result of our determination that Zotos International, Inc., located at 300 Forge Avenue, Geneva, New York 14456, has failed to comply with the reporting requirements pursuant to the General Pretreatment Regulations in violation of Sections 307 and 308 of the Clean Water Act, 33 U.S.C. §§1317 and 1318. This Complaint is filed pursuant to the authority of §309(g) of the Act, 33 U.S.C. §1319(g). The Complaint proposes that a penalty of \$7,500 be assessed against Zotos International, Inc. for the violations.

You have the right to a hearing to contest the factual allegations in the Complaint. If you admit the allegations, or they are found to be true after you have had an opportunity for a hearing on them, you have the right to contest the penalty proposed in the Complaint. Enclosed is a copy of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits" ("CROP"), 40 Code of Federal Regulations (C.F.R.) Part 22, which the Agency follows in cases of this kind. Please note the requirements for an Answer at 40 C.F.R. §22.15. **If you wish to contest the allegations in the Complaint or the penalty proposed in the Complaint, you must file an Answer within thirty (30) days of your receipt of the enclosed Complaint to the EPA Regional Hearing Clerk at the following address:**

Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway, 16th Floor (Room 1631)
New York, New York 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2012 SEP 25 A 8:50
REGIONAL HEARING
CLERK

If you do not file an Answer within thirty (30) days of receipt of this Complaint, you may be judged to have defaulted (See, §22.17 of the CROP). If a default order is entered, the entire proposed penalty may be assessed without further proceedings.

Whether or not you request a formal hearing, you may informally confer with EPA concerning the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint to pursue the possibility of settlement as a result of such informal conference with the Agency. You may represent yourself or be represented by an attorney at any stage of the proceedings, including any informal discussions, whether in person or by telephone.

Please note that a request for an informal conference does not substitute for a written Answer or effect what you may choose to say in an Answer, nor does it extend the thirty (30) days by which you must file an Answer requesting a hearing. Any hearing held in this matter will be conducted in accordance with the Proposed CROP, including Subpart I thereof.

If you have any questions or wish to discuss a settlement of this matter with the EPA by an informal conference, please immediately contact:


Diane T. Gomes, Esq.
Assistant Regional Counsel
U.S. Environmental Protection Agency
290 Broadway - 16th Floor
New York, New York 10007-1866
(212) 637-3235

Offer of Settlement

In an effort to promptly settle this matter, we are enclosing, for your consideration, a proposed Consent Agreement and Final Order ("CA/FO"). If, at the close of the public comment period on the Complaint, no adverse public comments are received and no information contrary to the information set forth in the Complaint comes to our attention in any other fashion, we would be prepared to enter into a CA/FO on the terms enclosed. Under the terms of the CA/FO you would be obligated to pay a penalty of \$2,200 in accordance with the terms of the CA/FO. **If you wish to resolve this matter without further proceedings, please sign the enclosed CA/FO and return it to EPA within twenty-five (25) days of your receipt of this letter. Do not submit payment to EPA until after you receive an executed CA/FO.** If we do not receive the Consent Agreement, signed by you or your authorized representative, within this twenty-five (25) day period, our offer of settlement is withdrawn and we will thereafter seek the full amount of the penalty proposed in the Complaint.

If you have any questions on the enclosed Consent Agreement and Consent Order, please contact Ms. Diane T. Gomes. We urge your prompt attention to this matter.

Sincerely,

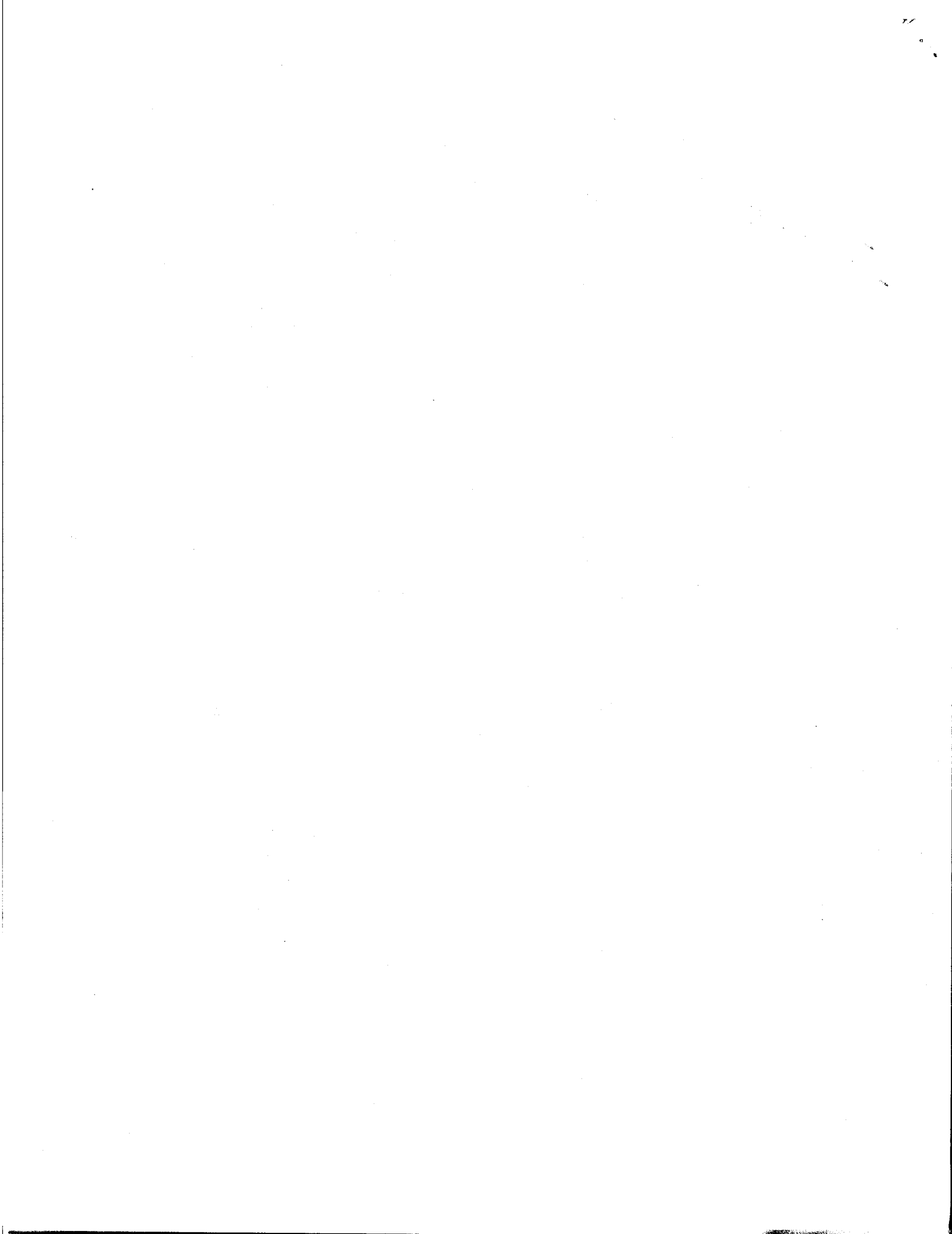


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

1. Complaint
2. Consolidated Rules of Practice
3. Proposed Consent Agreement and Final Order

cc: Karen Maples, Regional Hearing Clerk
Joseph DiMura, NYSDEC
Dixon Rollins, NYSDEC





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

SEP 21 2012

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2012 SEP 25 A 8:50
REGIONAL HEARING
CLERK

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5934 9526

Mr. Joseph DiMura, Director
Bureau of Water Compliance Programs
Division of Water
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-3506

Re: Notice of Proposed Assessment of a Civil Penalty
Docket No. CWA-02-2012-3309
Zotos International, Inc.

Dear Mr. DiMura:

Enclosed is a copy of the Administrative Complaint and notice of proposed assessment of a civil penalty, and an offer of settlement which the United States Environmental Protection Agency ("EPA") has issued to Zotos International, Inc. ("Respondent"), pursuant to Section 309(g) of the Clean Water Act ("Act"), 33 U.S.C. §1319(g). The EPA is issuing this Complaint to begin the process to assess administratively a Class I civil penalty of \$7,500 against Zotos International, Inc. for violations of the Act. The EPA is offering an opportunity for you to confer with us regarding the proposed assessment because the violations have occurred in New York.

Given the nature of the violations, the number of violations and the need for prompt resolution of this matter, an offer of settlement for reduced penalty was offered to Respondent. This offer is contingent upon receipt of no adverse public comments in this matter.

Sincerely,

Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures



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

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2012 SEP 25 A 8:50
REGIONAL HEARING
CLERK

IN THE MATTER OF:

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

Respondent

Proceeding to Assess Class I
Civil Penalty Under Section
309(g) of the Clean Water Act

Docket No. CWA-02-2012-3309

**COMPLAINT
FINDINGS OF VIOLATION, NOTICE OF PROPOSED
ASSESSMENT OF A CIVIL PENALTY, AND
NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

I. Statutory Authority

1. This Complaint, Findings of Violation, Notice of Proposed Assessment of a Civil Penalty, and Notice of Opportunity to Request a Hearing ("Complaint") 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"), 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 ("DECA") of EPA, Region 2 ("Complainant").
2. Pursuant to Section 309(g)(2)(A) of the Act, and 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 ("C.F.R.") Part 22, Complainant hereby requests that the Regional Administrator assess a civil penalty against Zotos International, Inc. ("Respondent") for failure to comply with the reporting requirements pursuant to the General Pretreatment Regulations at 40 C.F.R. Part 403 in violation of Sections 307 and 308 of the Act, 33 U.S.C. §§1317 and 1318.

II. Findings of Fact and Conclusions of Law

1. Respondent is a corporation organized under the laws of the State of New York and is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. §1362(5).
2. At all times relevant to this Administrative complaint, Respondent owned and operated a facility located at 300 Forge Avenue, Geneva, New York 14456 (the "facility") where the facility manufactured personal care products including pharmaceutical hair care products.

3. Respondent introduces non-domestic wastewater from its manufacturing processes into the City of Geneva Marsh Creek Wastewater Treatment Plant ("City of Geneva"), a "treatment works" within the meaning of Section 212(2)(a) of the Act, 33 U.S.C. §1292(2)(a), which is publicly owned. Respondent has been discharging process related wastewater since, at least, March 1, 2010.
4. Respondent is subject to the General Pretreatment Regulations and Categorical Pretreatment Standards for the Pharmaceutical Manufacturing Point Source Category and introduces process wastewater pollutants from its operations into a public owned treatment works ("POTW"). Respondent is an "Industrial User" ("IU") within the meaning of 40 C.F.R. §403.3(j).
5. City of Geneva has an "Approved Pretreatment Program" within the meaning of 40 C.F.R. §403.3(d). City of Geneva is the "Control Authority" pursuant to 40 C.F.R. §403.3(f), as defined for the purposes of 40 C.F.R. §403.12(b) and (d).
6. As a non-domestic user of a POTW, Respondent is required to comply with the requirements and standards promulgated by the EPA pursuant to Section 307 of the Clean Water Act, 33 U.S.C. §1317, including the General Pretreatment Standards found at 40 C.F.R. §403. In particular, 40 C.F.R. §403.12(b) and (d) require an industrial user subject to a categorical pretreatment standard to submit to the Control Authority certain reports regarding its discharge of wastewater to a POTW.
7. Pursuant to 40 C.F.R. §403.12(b) and 40 C.F.R. §439.47, Respondent was required to submit a Baseline Monitoring Report ("BMR") to the Control Authority, City of Geneva, regarding the discharge of wastewater from its categorical manufacturing process to the City of Geneva Marsh Creek Wastewater Treatment Plant. The BMR was required to be submitted within ninety (90) days prior to commencement of a discharge from a new source of categorical manufacturing process. Respondent manufactured pharmaceutical hair care products since at least March 1, 2010 based on production information provided during a site visit on March 23, 2011. Therefore, the BMR was due no later than November 30, 2009. The BMR was not submitted until December 29, 2010.
8. Pursuant to 40 C.F.R. §403.12(d) and 40 C.F.R. §439.47, Zotos International, Inc. was required to submit to the Control Authority, within ninety (90) days following commencement of its discharge from the categorical manufacturing process, a report on Compliance with Categorical Pretreatment Standard ("90-day Compliance Report") containing the information listed in 40 C.F.R. §403.12(b)(4)-(6). Therefore, the 90-day Compliance Report was due no later than May 30, 2010. The 90-day Compliance Report was not submitted until February 22, 2011.
9. On August 10, 2012, the Respondent, Zotos International, Inc. was issued an Administrative ORDER Docket CWA-02-2012-3008, for, among other things, failure to have submitted the BMR by August 31, 2008 for production of three different pharmaceutical products from at least November 2008. In responses dated August 31, 2012 and September 13, 2012, Respondent indicated that upon further evaluation, the three

pharmaceutical products manufactured since November 2008 did not meet the criteria of a pharmaceutical product. The production occurred on March 1, 2010 was for a different pharmaceutical product.

III. Findings of Violation

The Respondent's failure to have timely submitted the BMR and 90-day Compliance Report due on November 30, 2009 and May 30, 2010, respectively, as described above constitutes a violation of Sections 307 and 308 of the Act. EPA has determined that, under Section 309(g)(2)(A) of the Act, 33 U.S.C. §1319(g)(2)(A), the Respondent is liable for the administrative assessment of civil penalties in an amount not to exceed \$16,000 per violation, up to a maximum of \$37,500.

IV. Notice of Proposed Order Assessing a Civil Penalty

Based on the foregoing Findings of Violation, and pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. §1319(g), and the Debt Collection Improvement Act of 1996, EPA, Region 2 hereby proposes to issue a Final Order Assessing Administrative Penalties ("Final Order") to Respondent assessing penalty of \$7,500. EPA determined the proposed penalty after taking into account the applicable factors identified at Section 309(g)(3) of the Act, 33 U.S.C. §1319(g)(3). EPA has taken account of the nature, circumstances, extent and gravity of the violation (or violations), and Respondent's prior compliance history, degree of culpability, economic benefit or savings accruing to Respondent by virtue of the violations, and Respondent's ability to pay the proposed penalty. Based on the Findings set forth above, the Respondent has been found to have violated the Act in two (2) instances.

V. Notice of Opportunity to Request a Hearing

1. Respondent may, within thirty (30) days of receipt of this Complaint and as part of any Answer filed in this matter, request a Hearing on the proposed civil penalty assessment and at the Hearing may contest the factual allegations set forth in the Findings of Violation contained in Section II above, and the appropriateness of any penalty amount. The procedures for the Hearing, if one is requested, are set out in the CROP, including Subpart I thereof.
2. Be aware that should Respondent request a hearing on this proposed penalty assessment, members of the public, to whom EPA is obligated to give notice of this proposed action, will have a right under Section 309(g)(4)(B) of the Act, 33 U.S.C. §1319(g)(4)(B), to be heard and to present evidence on the appropriateness of the penalty assessment. Should Respondent not request a hearing, EPA will issue a Final Order, and only members of the public who submit timely comment on this proposal will have an additional thirty (30) days to petition EPA to set aside the Final Order and to hold a hearing thereon. EPA will grant the petition and will hold a hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order.

VI. Filing an Answer

1. If Respondent wishes to avoid being found in default, it must file a written Answer to this Complaint with the Regional Hearing Clerk no later than thirty (30) days from the date of receipt of this Complaint. EPA may make a motion pursuant to §22.17 of the proposed CROP seeking a default order thirty (30) days after Respondent's receipt of the Complaint unless Respondent files an Answer within that time. If a default order is entered, the entire proposed penalty may be assessed without further proceedings.
2. The Answer must clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint with respect to which Respondent has knowledge or clearly state that Respondent has no knowledge as to particular factual allegations in the Complaint. The Answer also shall state:
 - a) The circumstances or arguments which are alleged to constitute grounds of any defense;
 - b) The facts which Respondent disputes;
 - c) The basis for opposing the proposed relief;
 - d) Whether a Hearing is requested.
3. Failure of Respondent to admit, deny, or explain any material factual allegations in this Complaint shall constitute admission of the allegation.

VII. Filing of Documents

1. The Answer and any Hearing Request and all subsequent documents filed in this action should be sent to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway - 16th Floor (Room 1631)
New York, New York 10007-1866

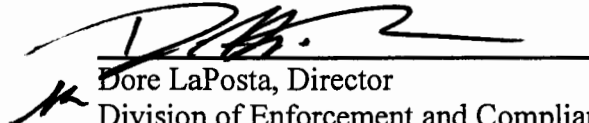
2. A copy of the Answer, any Hearing Request and all subsequent documents filed in this action shall be sent to Diane T. Gomes, Esq., Assistant Regional Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway - 16th Floor, New York, New York 10007, (212) 637-3235.

VIII. General Provisions

1. Respondent has a right to be represented by an attorney at any stage of these proceedings.
2. This Complaint does not constitute a waiver, suspension or modification of the requirements of the Act, regulations promulgated thereunder, or any applicable permit.
3. Neither assessment nor payment of an administrative civil penalty pursuant to Section 309(g) of the Act will affect Respondent's continuing obligation to comply with the Act,

and with any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. §1319(a), for the violations alleged herein.

ISSUED THIS 21st DAY OF September, 2012.


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

To: Mr. Anthony M. Perdigao, MBB
Vice President Operations & Chief Sustainability Officer
Zotos International, Inc.
300 Forge Avenue
Geneva, New York 14456-1294

CWA-02-2012-3309



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

-----X	:	
IN THE MATTER OF:	:	
	:	
Zotos International, Inc.	:	
300 Forge Avenue	:	Proceeding to Assess Class I
Geneva, New York 14456	:	Administrative Penalty Under
	:	Section 309(g)
Respondent	:	of the Clean Water Act
	:	
Proceeding Pursuant to §309(g) of the	:	Docket No.
Clean Water Act, 33 U.S.C. §1319(g)	:	CWA-02-2012-3309
-----X	:	

CERTIFICATE OF SERVICE

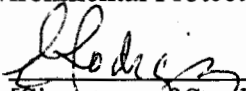
I certify that, on the date noted below, I caused to be mailed, by certified mail, return receipt requested, a copy of the foregoing "ADMINISTRATIVE COMPLAINT" and a copy of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," (40 Code of Federal Regulations Part 22 (July 1, 2000)) to the following persons at the addresses listed below:

Mr. Anthony M. Perdigao, MBB
Vice President Operations & Chief Sustainability Officer
Zotos International, Inc.
300 Forge Avenue
Geneva, New York 14456-1294

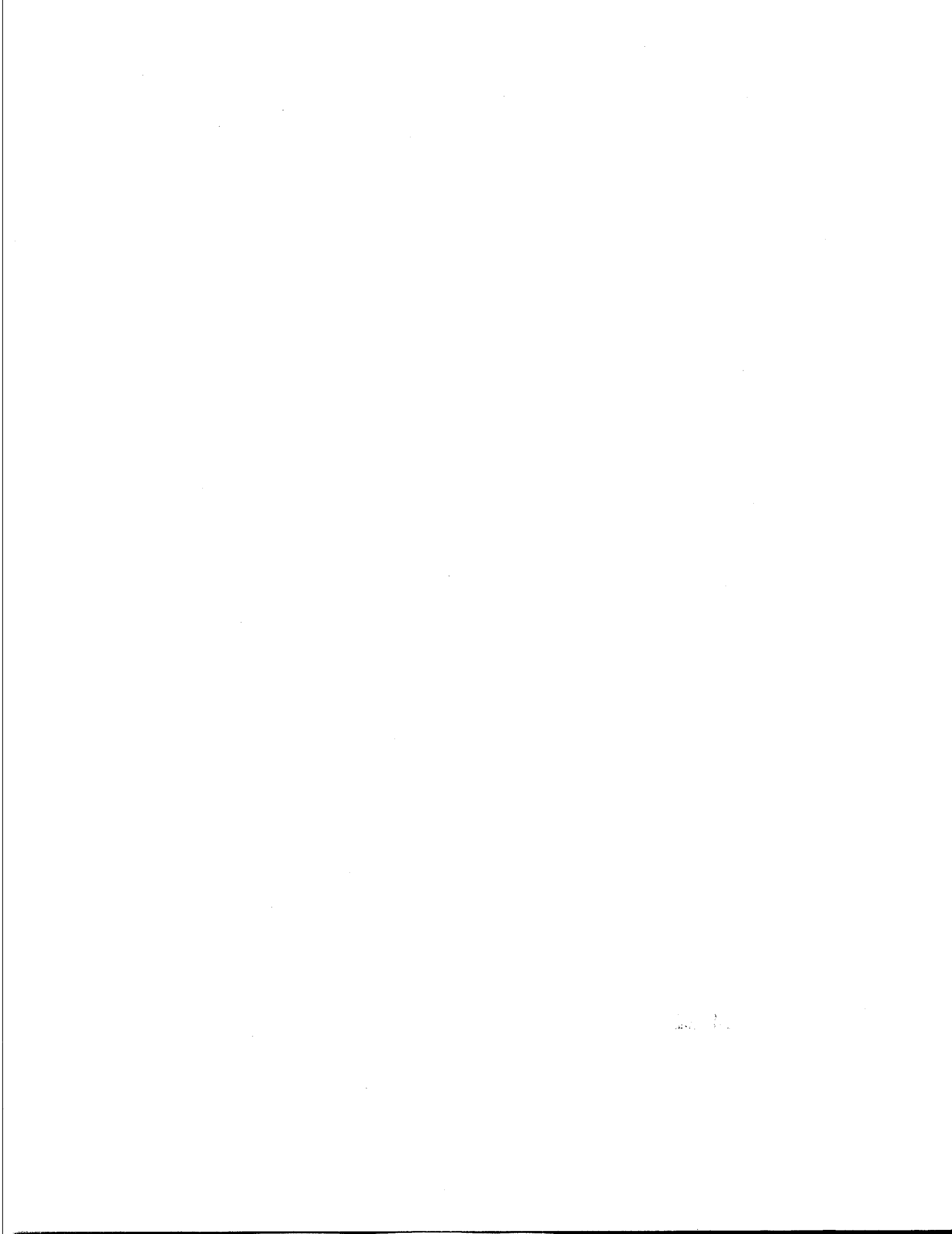
Mr. Joseph DiMura, P.E., Director
Bureau of Water Compliance Programs
Division of Water
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-3506

I hand carried / mailed the original and a copy of the foregoing Complaint to the office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Date: SEP 24 2012
New York, New York



[Signature of Sender]
[NOTE: must be over 18]



ATTACHMENT A
[WHO MUST BE SERVED - CROP §22.05(b)(1)]

If Respondent is domestic or foreign corporation, partnership or unincorporated association:

**Corporate Officer, e.g. President, Vice President, Secretary
Partner Managing or General Agent**

Any other person authorized by appointment or by Federal or State law to receive service of process (there is usually “agent for service of process” registered with Secretary of State’s office in each state in which corporation is authorized to do business).

If Respondent is State or local unit of government, agency, department, corporation or other instrumentality:

**Chief Executive Officer, e.g. Commissioner, Executive Director
As otherwise permitted by law.**

If Respondent is officer or Agency of the United States

**Agency head, e.g. Secretary, Administrator
As otherwise permitted by law.**



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

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 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:

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

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

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, 16th 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

\$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: _____

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

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

Date: _____

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: _____

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

