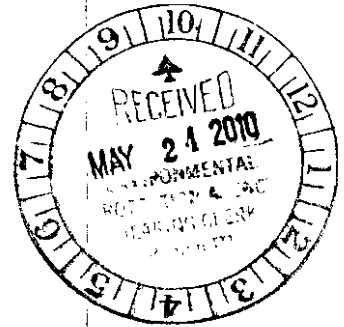


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029



**FIRST CLASS MAIL**

May 24, 2010

Lori Weidner  
U.S. Environmental Protection Agency  
Cincinnati Finance Center  
26 W. MLK Drive  
Cincinnati, OH 45268

Re: **Accounts Receivable**  
**Consent Agreement and Final Order**  
**EPA Docket No. RCRA-03-2010-0253**

Dear Ms. Weidner:

Enclosed please find a true and correct copy of the Consent Agreement and Final Order, and the Enforcement Accounts Receivable Control Number Forms (EARCNF) filed with the Regional Hearing Clerk today in settlement of the above referenced subject matters.

Should you have any question or require further information, please feel free to call me at (215) 814-2681.

Sincerely,

  
Louis F. Ramalho  
Sr. Asst. Regional Counsel

Enclosures

cc: Lydia Guy  
Regional Hearing Clerk  
U.S. EPA, Region III

**EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

This form was originated by: Stella-Jones Corporation  
*Stella Jones* *10/26/01*  
Name of Contact person Date

in the ORC Office at 22691 Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS

Administrative Order/Consent Agreement  
FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt

This is a modification

Name of Company making payment: Stella-Jones Corporation

The Total Dollar Amount of Receivable: \$ 19,624.00  
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number RCRA-03-2010-0253

The Site-Specific Superfund Acct. Number \_\_\_\_\_

The Designated Regional/HQ Program Office \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

The IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
Name of Contact Date

in the Financial Management Office, phone number: \_\_\_\_\_

**JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:**

- 1. Rosemarie Pacheco  
Environmental Enforcement Section  
Lands Division, Room 130044  
1425 New York Avenue, N.W.  
Washington, D.C. 20005

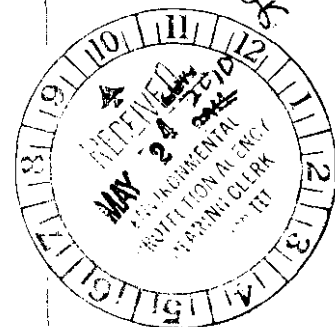
- 2. Originating Office (ORC)
- 3. Designated Program Office

**ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:**

- 1. Originating Office
- 3. Regional Hearing Clerk

- 2. Designated Program Office

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



In the Matter of:

Stella-Jones Corporation  
Route 21  
Ripley, West Virginia 24439

Respondent,

3424 Parkersburg Road  
Reedy, West Virginia 25270

Facility.

U.S. EPA Docket Number  
RCRA-03-2010-0253

Proceeding under Section 3008(a) and(g)  
of the Resource Conservation and  
Recovery Act, as amended, 42 U.S.C.  
Section 6928(a) and (g)

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and Stella-Jones Corporation ("Respondent" or "Stella"), pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. § 6928(a) and (g), and 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, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
2. The *Consolidated Rules of Practice*, at 40 C.F.R. § 22.13(b), provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). Pursuant thereto, this Consent Agreement ("CA") and the accompanying Final Order ("FO", collectively referred to herein as the "CAFO") simultaneously commence and conclude this administrative proceeding against Respondent.

3. The State of West Virginia ("West Virginia" or "State") has received federal authorization to administer a Hazardous Waste Management Program in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The West Virginia Hazardous Waste Management Regulations (hereinafter, "WVHWMR"), promulgated by the State pursuant to West Virginia Code Chapter 22, Article 18 (Hazardous Waste Management Act), originally were authorized by EPA on March 28, 1984, effective May 29, 1986 (51 Fed. Reg. 17739), pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). Revisions to the WVHWMR were authorized by EPA on May 10, 2000, effective July 10, 2000 (65 Fed. Reg. 29973) and October 16, 2003, effective December 15, 2003 (68 Fed. Reg. 59542). The provisions of West Virginia's current, authorized revised WVHWMR are set forth in Title 33, Leg. Rule, Division of Environmental Protection, Office of Waste Management, Series 20, Parts 33-20-1 through 33-20-15 (33 Code of State Regulations 20, abbreviated as 33CSR20, and hereinafter cited as WVHWMR § 33-21-1, et seq.). The provisions of the WVHWMR have become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a).
4. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA. Respondent is hereby notified of EPA's determination that Respondent has violated RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, and federally-authorized WVHWMR requirements at its facility located at 3424 Parkersburg Road, Ripley, West Virginia 25270 (hereinafter, the "Facility").
5. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), EPA notified the State of West Virginia of EPA's intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

## **II. GENERAL PROVISIONS**

6. Respondent admits the jurisdictional allegations set forth in this CAFO.
7. Respondent neither admits nor denies the specific factual allegations or the conclusions of law contained in this CAFO, except as provided in the paragraph immediately above.
8. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement of the CAFO.
9. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CA and any right to appeal the accompanying FO.

10. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
11. Respondent shall bear its own costs and attorney's fees.
12. The provisions of this CAFO shall be binding upon Complainant and upon Respondent, its officers, directors, employees, successors and assigns.
13. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit; nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, or any regulations promulgated and/or authorized thereunder.

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

14. In accordance with the *Consolidated Rules of Practice* at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the following findings of fact and conclusions of law:
15. Respondent is a Wisconsin corporation that is headquartered at Route 21, Ripley, West Virginia, and is registered to do business in the State of West Virginia.
16. Respondent is a "person" as that term is defined in WVHWMR § 33-20-2.1.a, which incorporates by reference 40 C.F.R. § 260.10.
17. At all times relevant to this CAFO, Respondent has been the "owner" and "operator" of a facility located at 3424 Parkersburg Road, Reedy, West Virginia (the "Facility"), which includes a "drip pad" and a hazardous waste "container" storage area, as those terms are defined in WVHWMR § 33-20-2.1.a, which incorporates by reference 40 C.F.R. § 260.10.
18. The Facility is a hazardous waste storage "facility" as that term is defined in WVHWMR § 33-20-2.1.a, which incorporates by reference 40 C.F.R. § 260.10.
19. As described below, Respondent is and, at all times relevant to this CAFO has been, a "generator" of "hazardous waste" at the Facility, as these terms are defined in WVHWMR § 33-20-2.1.a, which incorporates by reference 40 C.F.R. § 260.10.

20. At all times relevant to this CAFO, and as described below, Respondent has engaged in the "storage" of "solid waste" and "hazardous waste" at the Facility, as these terms are defined in WVHWMR § 33-20-2.1.a, which incorporates by reference 40 C.F.R. § 260.10.
21. On April 28, 2009, a duly authorized representative of EPA conducted a Compliance Evaluation Inspection ("CEI") of the Facility to assess the Respondent's compliance with federally authorized WVHWMR requirements.
22. On December 10, 2009, pursuant to the authority of RCRA § 3007(a), 42 U.S.C. § 6927(a), EPA sent an information request letter ("IRL") to Facility representatives seeking additional information regarding certain of Respondent's hazardous waste management practices at the Facility and requesting the production of specified documents and information.

**Relevant Statutory Requirements**

23. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and WVHWMR § 33-20-11.1, which incorporates by reference 40 C.F.R. § 270.1(b), no person may own or operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility.
24. Respondent has never been issued a permit pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or WVHWMR § 33-20-11.1, which incorporates by reference 40 C.F.R. Part 270, for the storage of hazardous waste at the Facility, and did not, at all times relevant to the violations alleged herein, have interim status pursuant to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), or WVHWMR § 33-20-11.1, which incorporates by reference 40 C.F.R. § 270.70.

**General Permit Exemption Conditions**

25. WVHWMR § 33-20-5., which incorporates by reference 40 C.F.R. § 262.34(a), provides, in pertinent part, that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or having interim status provided that, among other things:
  - (1) The waste is placed in containers and the generator complies with the requirements of 40 C.F.R. Part 265, Subpart I, AA, BB, and CC (relating to use and management of containers); and/or on drip pads and the generator complies with 40 C.F.R. Part 265, Subpart W and maintains the following records at the facility:

(A) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and

- (2) The generator complies with the requirements for owners and operators in 40 C.F.R. Part 265, Subpart C.

**Permit Exemption Conditions – Drip Pads**

26. 40 C.F.R. Part 265, Subpart W, at § 265.443(a)(3), provides, in pertinent part, that drip pads must have a curb or berm around the perimeter of the drip pad.
27. 40 C.F.R. Part 265, Subpart W, at § 265.444(b), provides that while a drip pad is in operation, it must be inspected weekly and after storms to detect evidence of any of the following: (1) deterioration, malfunctions or improper operation of run-on and run-off control systems; (2) the presence of leakage in and proper functioning of leakage detection system; and (3) deterioration or cracking of the drip pad surface.

**Permit Exemption Conditions - Containers**

28. 40 C.F.R., Subpart I, at § 265.174, provides, in pertinent part, that the owner or operator must inspect, at least weekly, areas where hazardous waste containers are stored.

**Permit Exemption Conditions – Preparedness and Prevention (Aisle Space)**

29. 40 C.F.R., Subpart C, at § 265.35, provides, in pertinent part, that the owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

**COUNT I**

***Operating Without a Permit***

30. The allegations of paragraphs 1 through 29 of this CA are incorporated herein by reference as though fully set forth at length.
31. At the time of the April 28, 2009 CEI, the curb or berm on the drip pad was broken, rendering a portion of the northeastern section of the drip pad without a curb or a berm.

32. Respondent failed to perform weekly inspections of the drip pad during the weeks of April 13, 2009 and April 27, 2009 while the drip pad was in operation.
33. Respondent failed to perform weekly inspections of the Facility's hazardous waste container storage area during the weeks of December 1, 2008, April 13, 2009, and April 20, 2009.
34. At the time of the April 28, 2009 CEI, Respondent failed to maintain aisle space in the Facility's hazardous waste container storage area to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.
35. At all times relevant to the violations alleged herein, "hazardous wastes" (F034/F035) generated by Respondent were in "storage" in "containers" and a "drip pad" described above, as those terms are defined by WVHWMR § 33-20-5., which incorporates by reference 40 C.F.R. § 260.10.
36. Respondent failed to qualify for the "less than 90 day" generator accumulation exemption of WVHWMR § 33-20-5., which incorporates by reference 40 C.F.R. § 262.34(a), for the activities and/or units described in Paragraphs 31 through 35, above, by failing to satisfy the conditions for such exemption as set forth in WVHWMR § 33-20-5., which incorporates by reference 40 C.F.R. §§ 262.34(a)(1)(i) and (iii), and (4), as described in Paragraphs 32 through 36, above.
37. Respondent was required by WVHWMR § 33-20-11.1, 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 activities and/or units described in Paragraphs 31 through 35.
38. Respondent has never had a permit or interim status pursuant to 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), or Section 3005 of RCRA, 42 U.S.C. § 6925, for the storage of hazardous waste at the Facility as described in Paragraphs 31 through 35, above.
39. Respondent violated WVHWMR § 33-20-11.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by owning and operating a hazardous waste storage facility without a permit, interim status or valid exemption to the permitting/interim status requirements.



**COUNT II**

***(Failure to Maintain Curbing Around Drip Pad)***

40. The allegations of paragraphs 1 through 39 of this CA are incorporated herein by reference as though fully set forth at length.
41. WVHWMR § 33-20-7, which incorporates by reference 40 C.F.R. § 264.573(a)(3), provides, in pertinent part, that drip pads must have a curb or berm around the perimeter of the drip pad.
42. At the time of the April 28, 2009 CEI, Respondent failed to have a curb or berm around the perimeter of the drip pad as required by WVHWMR § 33-20-7, which incorporates by reference 40 C.F.R. § 264.573(a)(3).
43. Respondent violated WVHWMR § 33-20-7, which incorporates by reference 40 C.F.R. § 264.573(a)(3), by failing to have a curb or berm around the perimeter of the drip pad at the Facility.

**COUNT III**

***(Failure to Inspect the Drip Pad Weekly)***

44. The allegations of paragraphs 1 through 43 of this CA are incorporated herein by reference as though fully set forth at length.
45. WVHWMR § 33-20-7, which incorporates by reference 40 C.F.R. § 264.574(b), provides that while a drip pad is in operation, it must be inspected weekly and after storms to detect evidence of any of the following: (1) deterioration, malfunctions or improper operation of run-on and run-off control systems; (2) the presence of leakage in and proper functioning of leakage detection system; and (3) deterioration or cracking of the drip pad surface.
46. Respondent failed to perform weekly inspections of the drip pad during the weeks of April 13, 2009 and April 27, 2009 while it was in operation as required by WVHWMR § 33-20-7, which incorporates by reference 40 C.F.R. § 264.574(b).
47. Respondent violated WVHWMR § 33-20-7, which incorporates by reference 40 C.F.R. § 264.574(b), by failing to perform weekly inspections of the drip pad at the Facility.

**COUNT IV**

***(Failure to Inspect the Hazardous Waste Container Storage Area Weekly)***

48. The allegations of paragraphs 1 through 47 of this CA are incorporated herein by reference as though fully set forth at length.
49. WVHWMR § 33-20-7, which incorporates by reference 40 C.F.R. § 264.174, provides, in pertinent part, that the owner or operator must inspect, at least weekly, areas where hazardous waste containers are stored.
50. Respondent failed to perform weekly inspections of the Facility's hazardous waste container storage area during the week of December 1, 2008, April 13, 2009, and April 20, 2009 as required by WVHWMR § 33-20-7, which incorporates by reference 40 C.F.R. § 264.174.
51. Respondent violated WVHWMR § 33-20-7, which incorporates by reference 40 C.F.R. § 264.174, by failing to perform weekly inspections of the Facility's hazardous waste container storage area.

**COUNT V**

***(Failure to Maintain Aisle Space in the Hazardous Container Storage Area)***

52. The allegations of paragraphs 1 through 51 of this CA are incorporated herein by reference as though fully set forth at length.
53. WVHWMR § 33-20-7., which incorporates by reference 40 C.F.R. § 264.35, provides, in pertinent part, that the owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.
54. At the time of the April 28, 2009 CEI, Respondent failed to maintain aisle space in the Facility's non-permitted hazardous waste storage area to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.
55. Respondent violated WVHWMR § 33-20-7., which incorporates by reference 40 C.F.R. § 264.35, by failing to maintain aisle space in the Facility's non-permitted hazardous waste storage area to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

#### IV. CIVIL PENALTIES

56. Respondent agrees to pay a civil penalty in the amount of **Nineteen Thousand Six Hundred Twenty-Four Dollars (\$19,624.00)**, in settlement and satisfaction of all civil claims for penalties which Complainant may have concerning the violations alleged and set forth in Section III ("EPA Findings of Fact and Conclusions of Law") of this CA. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.
57. The civil penalty settlement amount set forth in the paragraph immediately above was determined after consideration of the statutory factors set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy"), which reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19. Pursuant to 40 C.F.R. Part 19, civil penalties for RCRA violations occurring after January 30, 1997 and on or before March 15, 2004 are subject to a civil penalty not to exceed \$27,500.00 per violation. RCRA violations occurring after March 15, 2004 and on or before January 12, 2009 are subject to a civil penalty not to exceed \$32,500.00 per violation. Violations occurring after January 12, 2009 are subject to a civil penalty not to exceed \$37,500 per violation.
58. Payment of the civil penalty as required by paragraph 56, above, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:
- a. All payments by the Respondent shall include Respondent's full name and address and the EPA Docket Number of this Consent Agreement (RCRA-03-2010-0253).
  - 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  
PO 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-C2GL  
St. Louis, MO 63101

Contact 314-418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
U.S. EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

- f. All payments by electronic funds transfer ("EFT") shall be directed 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 should read  
"D 68010727 Environmental Protection Agency"

- g. All payments made through the automatic clearinghouse ("ACH"), also known as

Remittance Express ("REX"), shall be directed to:

U.S. Treasury REX/Cashlink ACH Receiver  
ABA No. 051036706  
Account 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking

Physical Location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

*Contact, Jesse White, 301-887-6548 or REX, 1-866-234-5681*

h. On-line Payment Option:

[WWW.PAY.GOV/PAYGOV](http://WWW.PAY.GOV/PAYGOV)

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

i. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

59. At the time of payment, Respondent simultaneously shall send a notice of such payment, including a copy of the check or electronic fund transfer, as applicable, to:

Ms. Lydia Guy  
Regional Hearing Clerk (3RC00)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029;

and

Louis F. Ramalho  
Sr. Assistant Regional Counsel (3RC30)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

60. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs 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, Respondent's 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.

61. 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).
62. 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 EPA's *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.
63. 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 more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
64. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this CAFO.

#### **V. CERTIFICATIONS**

65. Respondent certifies to Complainant by its signature hereto, to the best of Respondent's knowledge and belief, that Respondent and the Facility currently are in compliance with all relevant provisions of the authorized WVHWMR and of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e, for which violations are alleged in this CA.

#### **VI. OTHER APPLICABLE LAWS**

66. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

## **VII. RESERVATION OF RIGHTS**

67. This CAFO resolves only EPA's claims for civil penalties for the specific violations which are alleged in this CA. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake action against any person, including the Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public 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 CAFO following its filing with the Regional Hearing Clerk.

## **VIII. FULL AND FINAL SATISFACTION**

68. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g), for the violations alleged in this CA.

## **IX. PARTIES BOUND**

69. This CA and the accompanying FO shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this CA on behalf of Respondent acknowledges that he or she is fully authorized to enter into this CA and to bind the Respondent to the terms and conditions of this CA and the accompanying FO.

## **X. EFFECTIVE DATE**

70. The effective date of this CAFO is the date on which the FO is filed with the Regional Hearing Clerk after signature by the Regional Administrator or his designee, the Regional Judicial Officer.

**XI. ENTIRE AGREEMENT**

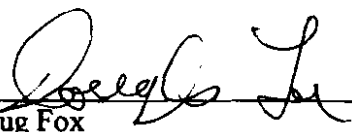
71. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent:

Stella-Jones Corporation

Date: 05/07/2010

By:

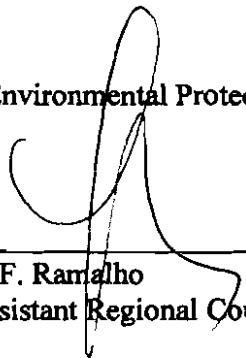
  
\_\_\_\_\_  
Doug Fox  
Senior Vice President, Engineering & Operations

For the Complainant:

U.S. Environmental Protection Agency, Region III

Date: 05/10/2010

By:

  
\_\_\_\_\_  
Louis F. Ramalho  
Sr. Assistant Regional Counsel

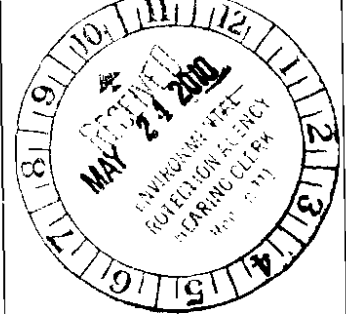
After reviewing the EPA Findings of Fact, Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached FO.

Date: 5/13/10

By:

  
\_\_\_\_\_  
Abraham Ferdas, Director  
Land and Chemicals Division





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

**In the Matter of:** :  
:   
**Stella-Jones Corporation** :   
**Route 21** : **U.S. EPA Docket Number**  
**Ripley, West Virginia 24439** : **RCRA-03-2010-0253**  
:   
**Respondent,** :   
:   
:   
**3424 Parkersburg Road** :   
**Reedy, West Virginia 25270** :   
:   
**Facility.** :

**FINAL ORDER**

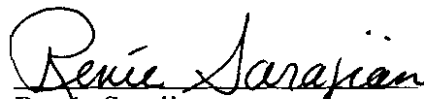
Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Stella-Jones Corporation, have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice 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. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

**NOW, THEREFORE, PURSUANT TO** Section 22.18(b)(3) of the *Consolidated Rules of Practice* and Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C.

§ 6928(a) ("RCRA"), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 3008(a)(3) and (g), 42 U.S.C. § 6928(a)(3) and (g), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of Nineteen Thousand Six Hundred Twenty-Four Dollars (\$19,624.00) in accordance with the terms and conditions of the Consent Agreement, and comply with each of the additional terms and conditions as specified in the attached Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 5/20/10

  
Renee Sarajian  
Regional Judicial Officer  
U.S. EPA, Region III

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the date listed below, the original of the foregoing Consent Agreement and Final Order, Docket No. **RCRA-03-2010-0253** was filed with the Regional Hearing Clerk, U.S. EPA - Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and that a true and correct copy was sent to the following party:

Linda Benfield, Esq.  
Foley & Lardner LLP  
777 E. Wisconsin Ave.  
Milwaukee, WI 53202

5/24/10  
Date



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Louis F. Ramalho  
Sr. Assistant Regional Counsel  
U.S. EPA - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029