

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	DOCKET NO. RCRA-05-2007-0015
North American EN, Inc.)	
450 Crossen Avenue)	
Elk Grove Village, IL 60007)	
)	
U.S. EPA ID No.: ILD082068214)	
)	
Respondent)	

**ANSWER OF NORTH AMERICAN EN, INC. TO
ADMINISTRATIVE COMPLAINT AND COMPLIANCE ORDER,
AND REQUEST FOR HEARING AND SETTLEMENT CONFERENCE**

North American EN, Inc. (“North American”) answers the Administrative Complaint and Compliance Order of the United States Environmental Protection Agency (“U.S. EPA”) as follows:

I. COMPLAINT

Preliminary Statement and Jurisdiction

1. North American admits that the U.S. EPA has instituted a civil administrative action pursuant to the statutes and regulations stated in this paragraph of the Complaint, but denies that the United States is entitled to payment of civil penalties by North American.
2. North American admits that U.S. EPA has subject matter jurisdiction for this action under the statutes enumerated in this paragraph 2.
3. North American admits the allegations contained in this paragraph 3.
4. North American admits the allegations contained in this paragraph 4.

5. North American admits the allegations contained in this paragraph 5, except denies that assessment of civil penalties against North American are warranted.

6. North American is without sufficient knowledge to form a belief as to the allegations contained in this paragraph 6, and, therefore, denies the same.

7. North American is without sufficient knowledge to form a belief as to the allegations contained in this paragraph 7, and, therefore, denies the same.

Regulatory Background

8. North American admits the allegations contained in this paragraph 8, limited to their characterization in summary form of the regulatory provisions referred to therein.

9. North American admits the allegations contained in this paragraph 9, limited to their characterization in summary form of the regulatory provisions referred to therein.

10. North American admits the allegations contained in this paragraph 10, limited to their characterization in summary form of the regulatory provisions referred to therein.

11. North American admits the allegations contained in this paragraph 11, limited to their characterization in summary form of the regulatory provisions referred to therein.

12. North American admits the allegations contained in this paragraph 12.

13. North American admits the allegations contained in this paragraph 13, limited to their characterization in summary form of the regulatory provisions referred to therein.

14. North American admits the allegations contained in this paragraph 14, limited to their characterization in summary form of the regulatory provisions referred to therein.

15. North American admits the allegations contained in this paragraph 15, limited to their characterization in summary form of the regulatory provisions referred to therein.

16. North American admits the allegations contained in this paragraph 16, limited to their characterization in summary form of the regulatory provisions referred to therein.

17. North American admits the allegations contained in this paragraph 17, limited to their characterization in summary form of the regulatory provisions referred to therein.

18. North American admits the allegations contained in this paragraph 18, limited to their characterization in summary form of the regulatory provisions referred to therein.

19. North American admits the allegations contained in this paragraph 19, limited to their characterization in summary form of the regulatory provisions referred to therein.

20. North American admits the allegations contained in this paragraph 20, limited to their characterization in summary form of the regulatory provisions referred to therein.

General Allegations

21. North American admits the allegations contained in this paragraph 21.

22. North American admits the allegations contained in this paragraph 22.

23. The allegations of this paragraph 23 call for a legal conclusion for which no answer is required.

24. North American admits the allegations contained in this paragraph 24.

25. The allegations of this paragraph 25 call for a legal conclusion for which no answer is required.

26. North American denies the allegations contained in this paragraph 26.

27. North American admits the allegations contained in this paragraph 27.

28. North American admits the allegations contained in this paragraph 28.

29. North American admits the allegations contained in this paragraph 29.

30. North American admits the allegations contained in this paragraph 30.

31. North American admits the allegations contained in this paragraph 31.

32. North American admits the allegations contained in this paragraph 32.

33. North American admits the allegations contained in this paragraph 33.

34. North American admits the allegations contained in this paragraph 34, except denies that it is a hazardous waste storage facility.

35. North American admits the allegations contained in this paragraph 35, except denies that it is a hazardous waste storage facility.

36. North American admits the allegations contained in this paragraph 36.

37. North American admits the allegations contained in this paragraph 37.

38. The allegations of this paragraph 38 call for a legal conclusion for which no answer is required.

39. The allegations of this paragraph 39 call for a legal conclusion for which no answer is required.

40. North American admits the allegations contained in this paragraph 40.

41. North American admits the allegations contained in this paragraph 41.

42. North American admits the allegations contained in this paragraph 42.

43. North American admits the allegations contained in this paragraph 43.

44. North American admits the allegations contained in this paragraph 44.

45. North American admits the allegations contained in this paragraph 45.

46. North American admits the allegations contained in this paragraph 46.

47. North American admits the allegations contained in this paragraph 47.

48. North American admits the allegations contained in this paragraph 48.

49. North American admits the allegations contained in this paragraph 49.

Count 1

Illegal Storage of Hazardous Waste

50. North American restates and incorporates by reference its answers to the allegations of paragraphs 1-49 as its answer to this paragraph 50.

51. North American [admits/denies?] that on February 28, 2005 it did not have a written hazardous waste contingency plan. To the extent that the remaining allegations of this paragraph 51 call for a legal conclusion, no answer to such allegations is required.

52. North American [admits/denies?] that on February 28, 2005 it did not have records that demonstrated that North American had provided facility personnel with training. North American admits that the Complaint purports to describe training requirements in paragraphs 13-18, and record retention requirements for training in paragraph 19. To the extent that the remaining allegations of this paragraph call for a legal conclusion, no answer to such allegations is required.

53. The allegations of this paragraph 53 call for a legal conclusion for which no answer is required.

54. North American admits the allegations contained in this paragraph 54, except denies that it is a hazardous waste storage facility.

55. The allegations of this paragraph 55 call for a legal conclusion for which no answer is required.

56. The allegations of this paragraph 56 call for a legal conclusion for which no answer is required.

Count 2

Failure to Determine If A Solid Waste Is A Hazardous Waste

57. North American restates and incorporates by reference its answers to the allegations of paragraphs 1-49 as its answer to this paragraph 57.

58. North American admits the allegations contained in this paragraph 58, limited to their characterization in summary form of the regulatory provisions referred to therein.

59. North American admits the allegations contained in this paragraph 59, limited to their characterization in summary form of the regulatory provisions referred to therein.

60. North American admits the allegations contained in this paragraph 60, limited to their characterization in summary form of the regulatory provisions referred to therein.

61. North American admits the allegations contained in this paragraph 61, limited to their characterization in summary form of the regulatory provisions referred to therein.

62. North American lacks sufficient knowledge or information to form a belief as to the truth of the allegations stated in this paragraph 62, and, therefore, denies each and every allegation set forth therein.

63. North American lacks sufficient knowledge or information to form a belief as to the truth of the allegations stated in this paragraph 63, and, therefore, denies each and every allegation set forth therein.

64. North American lacks sufficient knowledge or information to form a belief as to the truth of the allegations stated in this paragraph 64, and, therefore, denies each and every allegation set forth therein.

65. North American admits the allegations contained in this paragraph 65.

66. North American admits the allegations contained in this paragraph 66.

67. North American admits the allegations contained in this paragraph 67, except denies that the information referred to therein was requested by U.S. EPA.

68. North American denies the allegations contained in this paragraph 68.

69. North American admits the allegations contained in this paragraph 69.

70. North American admits the allegations contained in this paragraph 70.

71. North American admits the allegations contained in this paragraph 71.

72. North American admits the allegations contained in this paragraph 72.

73. North American admits the allegations contained in this paragraph 73, except denies that the information referred to therein was requested by U.S. EPA.

74. North American lacks sufficient knowledge or information to form a belief as to the truth of the allegations stated in this paragraph 74, and, therefore, denies each and every allegation set forth therein.

75. North American admits the allegations contained in this paragraph 75.

76. The allegations of this paragraph 76 call for a legal conclusion for which no answer is required.

77. North American [admits/denies?] that the pH range reported in the material safety data sheet for the Zenith-A material includes a pH less than or equal to 2. To the extent that the remaining allegations contained in this paragraph 77 call for a legal conclusion, North American makes no answer to such allegations.

78. North American denies the allegations contained in this paragraph 78. To the extent that the remaining allegations contained in this paragraph 78 call for legal conclusion, North American makes no answer to such allegations.

79. North American lacks sufficient knowledge or information to form a belief as to the truth of the allegations stated in this paragraph 79, and, therefore, denies each and every allegation set forth therein. To the extent that the remaining allegations of this paragraph 79 call for a legal conclusion, North American makes no answer to such allegations.

80. The allegations of this paragraph 80 call for a legal conclusion for which no answer is required.

81. The allegations of this paragraph 81 call for a legal conclusion for which no answer is required.

II. PROPOSED CIVIL PENALTY

82. North American admits that U.S. EPA may assess civil penalties pursuant to the statutory and regulatory provisions alleged in this paragraph 82, but denies that payment of penalties by North American is warranted.

83. North American lacks sufficient knowledge or information to form a belief as to the truth of the allegations stated in this paragraph 83, and, therefore, denies each and every allegation set forth therein.

84. North American lacks sufficient knowledge or information to form a belief as to the truth of the allegations stated in this paragraph 84, or in Attachment A referred to therein, and, therefore, denies each and every allegation set forth in this paragraph.

85. North American denies that payment of a penalty is warranted, and, therefore, denies the allegations contained in this paragraph 85.

86. North American denies that payment of a penalty is warranted, and, therefore, denies the allegations contained in this paragraph 86.

III. COMPLIANCE ORDER

87. Except to the extent the foregoing allegations of U.S. EPA are denied by North American, and limited by the extent to which such allegations call for a legal conclusion for which no answer is required, North American agrees to comply with the requirements stated in this paragraph 87.

IV. OPPORTUNITY TO REQUEST A HEARING

North American requests a hearing. To the extent this Section IV of the Complaint contains assertions and allegations that call for an answer, North American lacks sufficient knowledge or information to form a belief as to the truth of such allegations stated in this Section IV, and, therefore, denies each and every said allegation set forth therein.

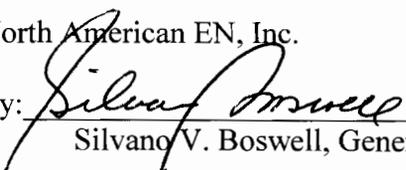
V. SETTLEMENT CONFERENCE

North American requests the further opportunity to engage in an informal conference to discuss the facts of this case and to arrive at a settlement. To the extent that this Section V of the Complaint sets forth assertions and allegations that require an answer, North American lacks sufficient knowledge or information to form a belief as to the truth of said allegations stated in this Section V, and, therefore, denies each and every said allegation.

Respectfully submitted,

North American EN, Inc.

By:


Silvano V. Boswell, General Manager

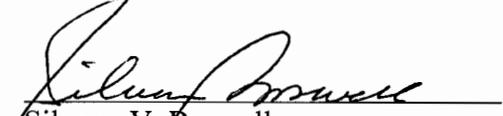
CERTIFICATE OF SERVICE

I hereby certify that today I mailed the original of this Answer of North American EN, Inc. to Administrative Complaint and Compliance Order, and Request for Hearing and Settlement Conference, by Federal Express, to the persons listed below:

Regional Hearing Clerk (E-13J)
United States Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, IL 60604

Sherry L. Estes, Esq.
Office of Regional Counsel (C-14J)
United States Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, IL 60604

Dated: October 23, 2007



Silvano V. Boswell
General Manager