



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

August 22, 2007

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Jeffrey W. Gold  
President  
Integrated Environmental Services, Inc.  
1445 Marietta Boulevard, NW  
Atlanta, Georgia 30318

Re: In the Matter of Integrated Environmental Services, Inc.  
Docket No.: RCRA-04-2007-4004(b)

Dear Mr. Gold:

Enclosed is a copy of the Consent Agreement and Final Order (CA/FO) that resolves the Resource Conservation and Recovery Act matter for your company. The CA/FO has been filed with the Regional Hearing Clerk and is effective on today's date. Please note that in accordance with paragraph 28, the company is required to pay \$8,400 as the first part of the penalty within 30 days of this date and the remaining \$8,400 within 60 days of this date.

If you have any questions, please call me at 404-562-9567.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael T. Newton".

Michael T. Newton  
Associate Regional Counsel

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	)	Docket Number: RCRA-04-2007-4004(b)
	)	
Integrated Environmental Services, Inc.	)	Proceeding under Section 3008(a)
1445 Marietta Boulevard	)	of the Resource Conservation and
Atlanta, Georgia 30318	)	Recovery Act, 42 U.S.C. § 6928(a)
	)	
EPA I.D. No.: GAR 000 036 897	)	
	)	
Respondent.	)	
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EPA REGION IV  
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HEARINGS CLERK

**CONSENT AGREEMENT**

**I. NATURE OF THE ACTION**

1. This is a civil administrative enforcement action ordering compliance with the requirements of Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6921 through 6939e, and the Georgia Hazardous Waste Management Act (GHWMA), § 12-8-60 through § 12-8-83, of the Official Code of Georgia Annotated (OCGA). This action is seeking injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for alleged violations of RCRA and regulations promulgated pursuant thereto and set forth at Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270; and the GHWMA and regulations promulgated pursuant thereto and set forth in the Georgia Hazardous Waste Management Rules (GHWMR) at Chapter 391-3-11 of the Georgia Department of Natural Resources Rules.
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

## **II. THE PARTIES**

4. Complainant is the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency (EPA).
5. Respondent is Integrated Environmental Services, Inc., a corporation incorporated and doing business in the State of Georgia and located at 1445 Marietta Boulevard, Atlanta, Georgia 30318.

## **III. PRELIMINARY STATEMENTS**

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), on August 21, 1984, the State of Georgia (the State) received final authorization from EPA to carry out certain portions of the State hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found in the GHWMA, § 12-8-60 through § 12883, and regulations set forth at Chapter 391-3-11 of the GHWMR. For purposes of this Order, citations herein to the requirements of RCRA shall constitute a citation to the equivalent requirements of the GHWMA and citations herein to the requirements of 40 C.F.R. Parts 124 and 260 through 268 and Part 270 shall constitute a citation to the equivalent requirements of the GHWMR. The use of the 40 C.F.R. citations is also appropriate since the GHWMR incorporated by reference the requirements of 40 C.F.R. Parts 124 and 260 through 268 and Part 270.
7. Although EPA has granted the State of Georgia authority to enforce its own hazardous waste program, EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). EPA exercises this authority in the manner set forth in the Memorandum of Agreement between EPA and the State of Georgia.
8. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State of Georgia before issuance of this CA/FO.
9. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10 (Section 391-3-11-.02 of the GHWMR).
10. Respondent is the "owner" and "operator" of a "facility" located at 1445 Marietta Boulevard, Atlanta, Georgia as those terms are defined in 40 C.F.R. § 260.10 (Section 391-3-11-.02 of the GHWMR).
11. Section 3002(a) of RCRA, 42 U.S.C. § 6922(a) and Section 12-8-66 of the GHWMA authorizes the regulation of facilities that generate hazardous waste. The implementing regulations for these requirements are found in 40 C.F.R. Part 262 (Section 391-3-11-.08 of the GHWMR).
12. Section 3005 of RCRA, 42 U.S.C. § 6925 and Section 12-8-66 of the GHWMA set forth the requirement for having interim status or a permit for the treatment, storage or disposal of

hazardous waste. The implementing regulations for this requirement are found in 40 C.F.R. Parts 124 and 270 (Section 391-3-11-.11 of the GHWMR).

13. Pursuant to 40 C.F.R. § 260.10 (Section 391-3-11-.02 of the GHWMR), a “generator” is any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to be subject to regulation. .
14. On March 29, 2007, a representative of EPA performed a RCRA compliance evaluation inspection (CEI) of Respondent’s Facility.
15. During the CEI, the EPA representative noted the following:
  - a. Respondent had clay and carbon media that it had removed from processed phosphine gas SDS cylinders (the media will be hereafter referred to as the “SDS Media”).
  - b. Respondent had not made a waste determination for the SDS Media.
  - c. Respondent had placed a quantity of the SDS Media in its solid waste dumpster. The SDS Media and the other contents of the dumpster were taken to and placed in a solid waste landfill. The transport of the SDS Media did not include the use of a manifest.

#### **IV. EPA ALLEGATIONS AND DETERMINATIONS**

16. At the time of the inspection, Respondent generated a solid waste which EPA alleges is a hazardous waste in that the SDS Media removed from the processed cylinders was P096 listed hazardous waste.
17. Pursuant to 40 C.F.R. § 262.11 (Section 391-3-11-.08 of the GHWMR), a person who generates a solid waste must determine if that waste is a hazardous waste. EPA alleges that Respondent failed to make a hazardous waste determination on solid waste at its Facility and therefore violated 40 C.F.R. § 262.11 (Section 391-3-11-.08 of the GHWMR).
18. Pursuant to 40 C.F.R. § 262.20 (Section 391-3-11-.08 of the GHWMR), a generator who offers hazardous waste for shipment off-site must prepare a manifest for such shipment. EPA alleges that Respondent had shipped hazardous waste off-site without the use of a manifest and therefore violated 40 C.F.R. § 262.20 (Section 391-3-11-.08 of the GHWMR).
19. EPA has determined that Respondent has corrected all the above-alleged violations.

## V. TERMS OF AGREEMENT

Based on the foregoing Allegations and Determinations, the parties agree to the following:

20. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out above pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
21. The Respondent neither admits nor denies the factual allegations set out above.
22. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
23. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act.
24. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this CA/FO.
25. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
26. The parties agree that compliance with the terms of this CA/FO shall resolve the alleged violations of RCRA referred to in this CA/FO.
27. Each party will pay its own costs and attorney's fees.

### A. PAYMENT OF CIVIL PENALTY

28. Respondent consents to the payment of a civil penalty in the amount of SIXTEEN THOUSAND EIGHT HUNDRED DOLLARS (\$16,800), by paying \$8,400 within 30 calendar days of the effective date of this CA/FO and by paying an additional \$8,400 within 60 calendar days of the effective date of this CA/FO.
29. Payment shall be made by cashier's check, certified check, or other payment acceptable to EPA, payable to: **Treasurer, United States of America**. The facility name and the docket number for this matter shall be referenced on the face of the check. Payment shall be tendered to:

United States Environmental Protection Agency  
Cincinnati Accounting Operations  
Mellon Lockbox 371099M  
Pittsburgh, Pennsylvania 15251-7099

Respondent shall submit a copy of the payment to the following addressees:

Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

and to:

Larry L. Lamberth, Acting Chief  
South Enforcement & Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

30. If Respondent fails to remit the civil penalty as agreed to herein, EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:
- (a) Interest. Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
  - (b) Monthly Handling Charge. Respondent must pay a late payment handling charge of \$15.00 on any late payment, with an additional charge of \$15.00 for each subsequent 30 calendar day period over which an unpaid balance remains.
  - (c) Non-Payment Penalty. On any portion of a civil penalty more than 90 calendar days past due, Respondent must pay a non-payment penalty of six percent per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

#### B. INJUNCTIVE RELIEF

31. Respondent has determined that it can use the SDS Media in its on-site scrubber. Provided Respondent complies with the schedule in the next paragraph, the storage of the SDS Media before use in the scrubber and its use in the scrubber will not be subject to the requirements of RCRA. Unless the Georgia Environmental Protection Division (EPD) makes a determination otherwise pursuant to Rule 391-3-11.07 (40 C.F.R. § 260.22) of the Georgia Hazardous Waste Management Rules (GHWMR) of the Georgia Department of Natural

Resources, the SDS Media removed from the scrubber will be subject to all applicable requirements of the GHWMR as a P096 listed hazardous waste.

32. Respondent has approximately 16,000 pounds of SDS Media in storage. Unless an alternate use or disposal as solid waste is authorized by EPD following its determination as specified in Paragraph 31, Respondent will use a minimum cumulative amount of the SDS Media in its scrubber by the dates indicated in the following schedule:

<u>Cumulative Amount</u>	<u>Date</u>
3,000 pounds	March 15, 2008
6,500 pounds	September 15, 2008
10,500 pounds	March 15, 2009
All SDS Media	September 15, 2009

33. Respondent may submit a written request 30 days before any of the schedule dates for an extension for such date. The request shall provide the details for why such extension is needed and the impact the extension may have on subsequent dates, if any. If good cause is shown for the requested extension, EPA shall give full consideration to the request. If EPA denies the request, Respondent shall have the right to meet with the Division Director of the RCRA Division to request a reconsideration of the decision. The decision of the RCRA Division Director will be final and not subject to further review or appeal.
34. Respondent shall establish and maintain a written log for the usage of the SDS Media in the scrubber. The log shall include, at minimum, the following information:
1. Date media placed into the scrubber;
  2. Quantity (lbs) of media placed into scrubber;
  3. Project(s) (by facility or company/agency name(s)) for which scrubber is being operated during the period that the batch of media is in the scrubber;
  4. Date media removed from scrubber (waste media);
  5. Cumulative quantity of waste media in storage on each date specified in 4;
  6. Date waste media shipped off-site;
  7. Quantity of waste media shipped off-site
  8. Facility to which waste media was shipped;
  9. Manifest number for each waste media shipment;
35. Respondent shall submit a written report to EPA within 15 calendar days of each date listed in Paragraph.32, or the extended date pursuant to Paragraph 33. The initial report shall cover the period between the effective date of the CA/FO and the first specified date. Each subsequent report shall cover the period since the previous report. The report shall provide a copy of the log required by Paragraph 34 and shall include copies of manifests for all shipments of waste SDS Media that occurred since the prior report.
36. Beginning 45 days after the effective date of this CA/FO, if Respondent fails for any reason to use the SDS Media in its scrubber during the operation of the scrubber, Respondent shall notify EPA in writing within 10 calendar days of that failure with an explanation of why the

scrubber is being operated without use of the SDS Media. Upon such failure, Respondent shall immediately comply with all applicable requirements of the GHWMR for the unused SDS Media as well as continuing to comply with the GHWMR for any of the SDS Media that had been used in the scrubber. EPA has the right to bring a separate enforcement action for any violations of the GHWMR as specified in this paragraph or the right to bring an enforcement action pursuant to Paragraph 42 for such violations as violations of this CA/FO.

37. Notwithstanding the above paragraphs, Respondent may use or dispose of the SDS Media in any manner approved by EPD after its determination as specified in Paragraph 31.

C. STIPULATED PENALTIES

38. If Respondent does not use or stops using the SDS Media in its scrubber, it shall pay a stipulated penalty based upon the date the SDS Media is not used in the scrubber, as follows:

<u>Date</u>	<u>Penalty Amount</u>
On or before March 15, 2008	\$20,000
After March 15, 2008, and on or before Sept. 15, 2008	\$15,000
After Sept. 15, 2008 and on or before March 15, 2009	\$10,000
After March 15, 2009 and on or before Sept. 15, 2009	\$5,000

The payment of a stipulated penalty pursuant to this paragraph does not relieve Respondent of its obligation under Paragraph 36 to comply with the requirements of the GHWMR nor does it prevent EPA from initiating a separate enforcement action for any violation of such requirements.

39. Respondent shall pay a stipulated penalty if it fails to meet the schedule in Paragraph 32 in accordance with the following:

For the first 30 days:	\$50 per day
For the next 60 days:	\$75 per day
For any over 90 days:	\$100 per day

The stipulated penalties shall begin to accrue on the day after performance is due, as extended if an extension is granted by EPA pursuant to the provisions of this CA/FO, and shall continue to accrue through the final day of the completion of the activity.

40. Respondent shall pay stipulated penalties within fifteen (15) calendar days of receipt of a written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of Paragraph 29 above. Interest and late charges shall be paid as stated in Paragraph 30 above.

### C. SUBMISSIONS

41. The information required to be submitted under this CA/FO shall be mailed to:

Larry L. Lamberth, Acting Chief  
South Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, SW  
Atlanta, GA 30303-8960

and to:

Mark Smith,  
Chief, Hazardous Waste Management Branch  
Georgia Environmental Protection Division  
2 Martin Luther King Jr. Drive  
Atlanta, GA 30334

### VI. RESERVATION OF RIGHTS

42. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health or the environment.
43. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
44. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.
45. This CA/FO shall not be deemed to create any estoppel or waiver of rights and/or defenses by either party as to any third party.
46. This CA/FO may be amended or modified only by written agreement executed by both the Complainant and Respondent.

## **VII. OTHER APPLICABLE LAWS**

47. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

## **VIII. PARTIES BOUND**

48. This CA/FO shall be binding upon Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents and all persons, including independent contractors, contractors and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
49. No change in ownership, partnership, corporate or legal status relating to the facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
50. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

## **IX. SERVICE OF DOCUMENTS**

51. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in the proceeding:

Michael T. Newton,  
Associate Regional Counsel  
U.S. EPA – Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960  
404-562-9567

52. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents the Respondent in this matter and who is to receive service for the Respondent in this proceeding:

Jeffrey W. Gold  
Integrated Environmental Services, Inc.  
1445 Marietta Boulevard, NW  
Atlanta, Georgia 30318  
404-352-2001

**X. SEVERABILITY**

53. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

**XI. EFFECTIVE DATE**

54. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

**Integrated Environmental Services, Inc.**

By:  Dated: 8/7/07  
Jeffrey W. Gold  
President

**U.S. Environmental Protection Agency**

By:  Dated: 8/9/09  
Narindar Kumar, Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

In the Matter of Integrated Environmental Services, Inc.  
Docket Number: RCRA-04-2007-4004(b)

**CERTIFICATE OF SERVICE**

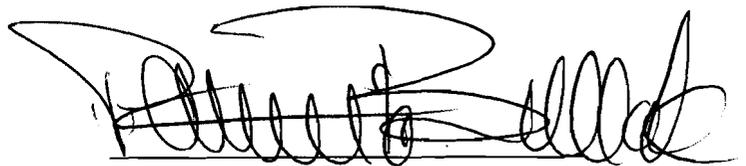
I hereby certify that on AUG 22 2007, I filed the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Integrated Environmental Services, Inc., Docket Number: RCRA-04-2007-4004(b), and that on AUG 22 2007 I served a true and correct copy of the CA/FO on the parties listed below in the manner indicated:

Via Certified Mail- Return Receipt Requested

Jeffrey W. Gold  
Integrated Environmental Services, Inc.  
1445 Marietta Boulevard, NW  
Atlanta, Georgia 30318

Via EPA's internal mail

Michael T. Newton  
Associate Regional Counsel  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303



Patricia A. Bullock  
Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9511

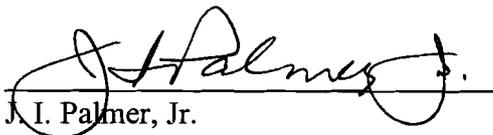
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
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IN THE MATTER OF:	)	Docket Number: RCRA-04-2007-4004(b)
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Integrated Environmental Services, Inc.	)	Proceeding under Section 3008(a)
1445 Marietta Boulevard	)	of the Resource Conservation and
Atlanta, Georgia 30318	)	Recovery Act, 42 U.S.C. § 6928(a)
	)	
EPA I.D. No.: GAR 000 036 897	)	
	)	
Respondent.	)	
_____		)

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**BEING AGREED, IT IS SO ORDERED** this 16<sup>th</sup> day of August, 2007.

BY:   
\_\_\_\_\_  
J.I. Palmer, Jr.  
Regional Administrator  
EPA Region 4