

**EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE FILLED OUT BY ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Jim Heine 12/20/10  
Name of Contact person Date

in the EPA-3 ORC at 215-814-2640  
Office 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 Person and/or Company/Municipality making the payment  
FOR MYER CONSTRUCTION CORPORATION

The Total Dollar Amount of Receivable \$5,500  
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number RERA-03-2011-0046

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

The Designated Regional/HQ Program Office LAND-CHEMICALS DIVISION - OFFICE OF  
LAW ENFORCEMENT

**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<br>Environmental Enforcement Section<br>Lands Division, Room 130044<br>1425 New York Avenue, N.W.<br>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     | 2. Designated Program Office |
| 3. Regional Hearing Clerk | 3. Regional Counsel          |

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

<b>In the Matter of:</b>	)	
	)	
<b>Fort Myer Construction Corporation,</b>	)	
	)	<b>U.S. EPA Docket Number</b>
<b>RESPONDENT.</b>	)	<b>RCRA-03-2011-0046</b>
	)	
<b>2237 33rd Street NE</b>	)	<b>Proceeding Under Section 9006 of the</b>
<b>Washington, D.C. 20018,</b>	)	<b>Resource Conservation and Recovery</b>
	)	<b>Act, as amended, 42 U.S.C. Section</b>
<b>FACILITY.</b>	)	<b>6991e</b>
	)	
	)	
	)	

**CONSENT AGREEMENT**

This Consent Agreement ("CA") is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("EPA" or "Complainant") and Fort Myer Construction Corporation ("Fort Myer" or "Respondent"), pursuant to Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6991e, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3).

This CA and the Final Order (collectively "CAFO"), resolve violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the District of Columbia's federally authorized underground storage tank program, by Respondent in connection with underground storage tanks at Respondent's facility located at 2237 33rd Street NE, Washington, D.C. 20002 ("the Facility").

Effective May 4, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the District of Columbia was granted final authorization to administer a state UST management program *in lieu* of the Federal UST management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m. The provisions of the District of Columbia UST management program regulations, through this final authorization, became requirements of Subtitle I of RCRA and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The District of Columbia's authorized UST program regulations ("DC UST Regulations") are set forth in the District of Columbia Municipal Regulations, Title 20, Chapters 55 *et seq.*, and will be cited hereinafter as 20 DCMR §§ 5500 *et seq.*

On January 7, 2010, EPA provided the District of Columbia notice in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2), that it would pursue an enforcement action for the violations resolved by this CAFO.

### **GENERAL PROVISIONS**

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CA.
2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CA, except as provided in Paragraph 1, above.
3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached Final Order ("FO"), or the enforcement of the CAFO.
4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in this CA and any right to appeal the accompanying FO.
5. Respondent consents to the issuance of this CAFO, and agrees to comply with its terms and conditions.
6. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

### **FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW**

7. The United States Environmental Protection Agency - Region III ("EPA" or the "Region") and EPA's Office of Administrative Law Judges have jurisdiction over this matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, and 40 C.F.R. § 22.1(a)(4) and .4(c).
8. Fort Myer is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 20 DCMR § 6899.1.
9. At all times relevant to this CAFO, Fort Myer has been the "owner" and/or "operator," as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and 20 DCMR § 6899.1, of the "underground storage tanks" ("USTs") and "UST systems" as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and 20 DCMR § 6899.1, located at the Facility.

10. On August 6, 2009, an EPA representative conducted a Compliance Evaluation Inspection ("CEI") of the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
11. At the time of the August 6, 2009 CEI, and at all times relevant to the applicable violations alleged herein, the following USTs were located at the Facility:
  - A. a 10,000-gallon Buffhide tank that was installed in June 1988 and that, at all times relevant hereto, routinely contained and was used to store gasoline, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter "UST #001");
  - B. a 20,000-gallon Buffhide tank that was installed in June 1988 and that, at all times relevant hereto, routinely contained and was used to store diesel fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter "UST #002"); and
  - C. a 1,000-gallon Buffhide tank that was installed in September 1987 and that, at all times relevant hereto, routinely contained and was used to store used oil, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter "UST #003").
12. At all times relevant to the applicable violations alleged herein, USTs #001, #002 and #003 have been "petroleum UST systems" and "existing tank systems" as these terms are defined in 20 DCMR § 6899.1, respectively.
13. USTs #001, #002 and #003 are not and were not, at all times relevant to the applicable violations alleged in this CAFO, "empty" as that term is defined at 20 DCMR § 6100.7.
14. Pursuant to RCRA Section 9005, 42 U.S.C. § 6991d, on February 1, 2010, EPA issued an Information Request letter to Fort Myer concerning its petroleum UST systems at the Facility to which Fort Myer responded in a letter dated March 17, 2010.

#### COUNT I

(Failure to have corrosion protection for the metal piping components of UST #003)

15. The allegations of Paragraphs 1 through 14 of this CAFO are incorporated herein by reference.
16. 20 DCMR § 5700.1 provides, in pertinent part, that the owner and operator of each existing UST system installed on or before December 22, 1988 shall ensure that the UST system meets the upgrade requirements set forth in 20 DCMR, Chapter 58 on or before December 22, 1998.

17. 20 DCMR § 5800.1 provides that not later than December 22, 1998, the owner and operator of each existing petroleum UST system shall ensure that the UST system complies with one of the following: (a) the upgrade requirements set forth in Chapter 58; (b) the new UST system performance standards set forth in Chapter 57; (c) for UST systems installed or upgraded on or before December 22, 1988, the federally required new UST performance standards set forth in 40 C.F.R. § 280.20; (d) the permanent closure requirements set forth in 20 DCMR Chapter 61, including applicable requirements for corrective action set forth in 20 DCMR Chapter 62.
18. The "upgrade requirement" at 20 DCMR § 5802.1 provides that metal piping that routinely contains regulated substances and is in contact with earthen materials shall be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory.
19. The "upgrade requirement" at 20 DCMR § 5802.2 provides, *inter alia*, that metal piping that routinely contains regulated substances and is in contact with earthen materials shall meet the new UST performance standards and requirements of either 20 DCMR § 5704.3(a) or (b).
20. The "new UST performance standards" requirement at 20 DCMR § 5704.3 provides that steel UST piping shall be cathodically protected by being coated with a suitable dielectric materials, and in addition: (a) field-installed cathodic protection systems shall be designed by a corrosion expert; and (b) impressed current cathodic protection systems shall be designed to allow determination of current operating status as required by 20 DCMR § 5901.6.
21. The "new UST system performance standards" requirement at 20 DCMR § 5704.1 provides that the piping that routinely contains regulated substances and is in contact with earthen materials must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, as specified by the Director of the Department of Consumer & Regulatory Affairs and in accordance with the BOCA Fire Prevention Code.
22. The "federally-required new UST performance standards" requirement of 40 C.F.R. § 280.20(b) provides that piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory. 40 C.F.R. § 280.20(b) further provides that:
  - A. the piping be constructed of fiberglass-reinforced plastic; or
  - B. the piping be constructed of steel and cathodically protected in the following manner:

- i. the piping is coated with a suitable dielectric material;
    - ii. the field-installed cathodic protection systems are designed by a corrosion expert;
    - iii. impressed current systems are designed to allow determination of current operating status as required in 40 C.F.R. § 280.31 or guidelines established by the implementing agency; or
  - C. the piping be constructed of metal without additional corrosion protection measures provided that:
    - i. the piping is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life; and
    - ii. owners and operators maintain records that demonstrate compliance with the requirements of paragraph (b)(3)(i) of this section for the remaining life of the piping; or;
  - D. the piping construction and corrosion protection are determined by the implementing agency to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements of (b)(1) through (3).
23. From at least December 1, 2005 until July 1, 2010, the underground piping for UST #003 contained a metal piping component which routinely contained regulated substances and was in contact with the ground and "earthen materials" as that term is defined in and 20 DCMR § 6899.
24. From at least December 1, 2005 until July 1, 2010, the metal piping component of the underground piping for UST #003 was not properly designed, constructed, and/or protected from corrosion in accordance with the upgrade requirements of 20 DCMR, Chapter 58, the new UST system performance standards of 20 DCMR Chapter 57, or the federally-required new tank performance standards of 40 C.F.R. § 280.20.
25. From December 1, 2005 until July 1, 2010, Respondent's UST # 003 was not in compliance with the permanent closure requirements of 20 DCMR Chapter 60, as set forth in 20 DCMR § 5800.1(d).
26. Respondent's acts and/or omissions as alleged in Paragraphs 24 and 25, above, for UST # 003 constitutes one violation by Respondent of 20 DCMR §§ 5800.1, 5802.1 and/or 5802.2.

**COUNT II**

(Failure to have Automatic Line Leak Detection)

27. The allegations in Paragraphs 1 through 26, of this CAFO are incorporated herein by reference.
28. 20 DCMR § 6004.2 provides that underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector (“ALLD”) in accordance with 20 DCMR § 6013.2.
29. 20 DCMR § 6013.2 provides that ALLDs which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may only be used if they detect leaks of three gallons per hour at ten pounds per square inch line pressure within one hour.
30. From at least January 23 through at least April 23, 2009, UST #002 contained underground piping that conveys regulated substances under pressure.
31. From at least January 23 through at least April 23, 2009, the underground piping for UST #002 contained regulated substances.
32. From at least January 23 through at least April 23, 2009, the underground piping for UST #002 failed to have an ALLD capable of alerting the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm capable of detecting leaks of three gallons per hour at ten pounds per square inch line pressure within one hour as set forth in 20 DCMR § 6013.2.
33. Respondent’s acts and/or omissions as alleged in Paragraph 32, above, for the underground piping of UST # 002 constitutes one violation by Respondent of 20 DCMR § 6004.2.

**CIVIL PENALTY**

34. Respondent consents to the assessment of a civil penalty in the amount of Five Thousand Five Hundred Dollars (\$5,500.00) in full satisfaction of all claims for penalties for the violations alleged in this CAFO. Such civil penalty amount is due and payable immediately upon Respondent’s receipt of a true and correct copy of this CAFO, fully executed by the parties, signed by the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, as described below, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.

35. The aforesaid settlement amount is based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors provided in RCRA Section 9006(c) - (e), 42 U.S.C. § 6991e(c) - (e), and in accordance with EPA's *Penalty Guidance for Violations of UST Regulations* ("UST Guidance") dated November 4, 1990. EPA has also considered the *Adjustment of Civil Penalties for Inflation* as set forth in 40 C.F.R. Part 19, and the April 6, 2010 Rosemarie A. Kelly *Revisions to Adjusted Penalty Policy Matrices Package Issued on November 16, 2009* memo, in determining the penalty amount set forth in Paragraph 34, above.

36. Payment of the civil penalty amount described in Paragraph 34, above, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

A. All payments by Respondent shall reference its name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2011-0046;

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 and mailed to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. 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 and mailed to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA, Fines and Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
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 made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 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 electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX/ Cashlink ACH Receiver  
ABA = 051036706  
Account No.: 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

F. On-Line Payment Option:

WWW.PAY.GOV

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)

J. Payment by the Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO (RCRA-03-2011-0046). A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

James Heenehan  
Sr. Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC30)  
1650 Arch Street  
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC00)  
1650 Arch Street  
Philadelphia, PA 19103-2029

37. 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.
38. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such 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).
39. 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.
40. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

41. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this CAFO.

### **COMPLIANCE TASKS**

42. Respondent will operate and maintain the 1,000 gallon used oil tank (UST #003) as an UST subject to the provisions of the authorized DC UST Regulations which does not qualify for the Heating Oil Tank exemption of 20 DCMR § 5503.1, unless one hundred per cent (100%) of the used oil stored in the past and being stored currently in UST #003 has been and is being (or will be) "consumed on the premises" as heating oil as referenced in the definition of "consumptive use" in 20 DCMR § 6899.1.

### **FULL AND FINAL SATISFACTION**

43. Pursuant to 40 C.F.R. § 22.18(c), this CAFO constitutes a full and final resolution of Respondent's liability to EPA for civil penalties pursuant to 9006(d) of RCRA, 42 U.S.C. § 6991e(d), for the specific violations and matters alleged herein. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violations of the federal laws and regulations administered by EPA.

### **CERTIFICATION OF COMPLIANCE**

44. The person signing this CA on behalf of the Respondent certifies to EPA by his or her signature herein that Respondent, as of the date of its execution of this CA, is in compliance with the provisions of RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991m, and the District of Columbia's federally authorized underground storage tank program set forth at 20 DCMR §§ 5500 *et seq.* at the Facility referenced herein. This certification is based on the personal knowledge of the signer or an inquiry of the person or persons responsible for the Facility's compliance with Subtitle I of RCRA.

### **RESERVATION OF RIGHTS**

45. This CAFO resolves only EPA's claims for the civil penalties for the specific violations alleged in the CAFO. EPA reserves the right to commence action against any person or persons, including 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.

**OTHER APPLICABLE LAWS**

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

**PARTIES BOUND**

47. The provisions of this CAFO shall be binding upon EPA and Respondent, and its officers, directors, employees, successors, agents, and assigns.

**AUTHORITY TO BIND THE PARTIES**

48. The undersigned representative of the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and bind that Respondent hereto.

**ENTIRE AGREEMENT**

49. This Consent Agreement and the attached Final Order constitute 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 Consent Agreement and the attached Final Order.

**EFFECTIVE DATE**


50. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

For Respondent:

Fort Myer Construction Corporation

DEC 16 2010

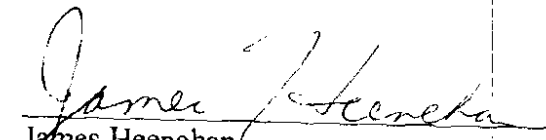
Date



For Complainant:


Environmental Protection Agency,  
Region III

12/17/10  
Date

  
James Heenehan  
Sr. Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

12/29/10  
Date

  
Abraham Ferdas, Director,  
Land and Chemicals Division  
EPA Region III

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

<b>In the Matter of:</b>	)	
	)	
<b>Fort Myer Construction Corporation,</b>	)	
	)	<b>U.S. EPA Docket Number</b>
<b>RESPONDENT.</b>	)	<b>RCRA-03-2011-0046</b>
	)	
<b>2237 33rd Street NE</b>	)	<b>Proceeding Under Section 9006 of the</b>
<b>Washington, D.C. 20018</b>	)	<b>Resource Conservation and Recovery</b>
	)	<b>Act, as amended, 42 U.S.C. Section</b>
	)	<b>6991e</b>
<b>FACILITY.</b>	)	
	)	
	)	

**FINAL ORDER**

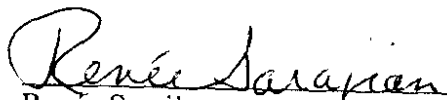
Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Fort Myer Construction Corporation, have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of 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 9006(c) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991e(c) ("RCRA"), and the *Consolidated Rules of Practice*, 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 9006(c) - (e) of RCRA, 42 U.S.C. § 6991e(c) - (e), IT IS HEREBY ORDERED that Respondent pay a civil penalty of Five Thousand and Five Hundred Dollars (\$5,500.00) in accordance with the payment provisions set forth in the attached 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 is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 12/22/10

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



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

UPS

Christopher Kerns, Esq.  
Vice President and General Counsel  
Fort Myer Construction Corporation  
2237 33<sup>rd</sup> Street, N.E.  
Washington, DC 20018

December 22, 2010

**Re: Fort Myer Construction Corporation  
Consent Agreement**

Dear Chris:

I have enclosed a true and correct copy of the Fort Myer Construction Corporation Consent Agreement and Final Order. Note that the penalty needs to be paid within thirty days of this agreement being placed into the mail, or January 21, 1011.

Please note that Fort Myer may be required to disclose to the Securities and Exchange Commission ("SEC") the existence of certain administrative or judicial proceedings taken against your client's company under Federal, State or local environmental laws. Please see the attached "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings" for more information about this requirement and to aid you in determining whether your company is subject to it.

Thank you for your cooperation in resolving this matter. Please do not hesitate to call me at (215)814-2640 if you have questions on this or any other matter.

Sincerely,

A handwritten signature in cursive script that reads "Jim Heenehan".

Jim Heenehan  
Sr. Assistant Regional Counsel

cc: J. Szaro (3LC70)



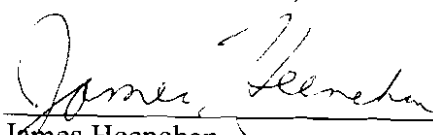


**CERTIFICATE OF SERVICE**

I certify that on the date noted below, I hand-delivered the original and one true and correct copy of the Consent Agreement and Final Order for *In the Matter of Fort Myer Construction Corporation* (Docket No. RCRC-03-2011-0046), to the Regional Hearing Clerk (3RC00), U.S. EPA Region III, 1650 Arch St., Philadelphia, PA, 19103, and that I sent a true and correct copy of same to the below Party via UPS:

Respondent: Christopher Kerns, Esq.  
Vice President and General Counsel  
Fort Myer Construction Corporation  
2237 33<sup>rd</sup> Street, N.E.  
Washington, DC 20018

12/22/10  
Date

  
\_\_\_\_\_  
James Heenehan  
Sr. Assistant Regional Counsel (3RC30)  
U.S. EPA Region III