

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: Daniel L. Isales
Name of Contact person

August 21, 2012
Date

in the Office of Regional Counsel
Office

at 410-305-3016
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

United States Department of the Navy; Joint Expeditionary Base Little Creek-Fort Story

The Total Dollar Amount of Receivable \$32,800 (RCRA C-\$19,800; RCRA I-\$13,000)

(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number RCRA-03-2012-0206

The Site-Specific Superfund Acct. Number _____

The Designated Regional/HQ Program Office Office of Enf., Compliance, and Environmental Justice/
Federal Facilities Enforcement Office (OECA)

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
3. Regional Counsel

RECEIVED

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
2018 AUG 21 AM 8:32
REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

IN RE: :
:
:
United States Department of the Navy, :
:
:
Respondent, :
: Docket No. RCRA-03-2012-0206
:
Joint Expeditionary Base Little Creek-Fort Story :
Virginia Beach, Virginia :
:
:
Facility. :

CONSENT AGREEMENT

Preliminary Statement

This Consent Agreement (“CA”) is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“EPA” or “Complainant”) and the U.S. Department of the Navy (“Respondent”), pursuant to Sections 3008, 9006, and 9007 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. §§ 6928, 6991e, and 6991f, 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).

Regulatory Background

This CA and the accompanying Final Order (collectively “CAFO”) resolve violations of RCRA, Subtitles C and I, 42 U.S.C. §§ 6921- 6939e and 6991-6991i, and regulations in the authorized Virginia hazardous waste and underground storage tank programs in connection with Respondent’s facility located at the Joint Expeditionary Base Little Creek-Fort Story, Virginia Beach, Virginia.

Virginia initially received final authorization for its hazardous waste regulations, the Virginia Hazardous Waste Management Regulations (“VaHWMR”), 9 VAC 20-60-12 *et seq.*, on December 4, 1984, effective December 18, 1984 (49 Fed. Reg. 47391). EPA reauthorized Virginia’s regulatory program on June 14, 1993, effective August 13, 1993 (58 Fed. Reg. 32855); on July 31, 2000, effective September 29, 2000 (65 Fed. Reg. 46606), on June 20, 2003, effective June 20, 2003 (68 Fed. Reg. 36925), on May 10, 2006, effective July 10, 2006 (71 Fed. Reg.

27204), and on July 30, 2008, effective July 30, 2008 (73 Fed. Reg. 44168).

On September 28, 1998 (effective October 28, 1998) (63 Fed. Reg. 51528), pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, Virginia was granted final authorization by EPA to administer a state underground storage tank management program *in lieu* of the Federal underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991i. The provisions of the Virginia underground storage tank management program, through this final authorization, have become requirements of Subtitle I of RCRA and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The provisions of Virginia's authorized underground storage tank program are cited as Underground Storage Tanks: Technical Standards and Corrective Action Requirements ("VA UST Regulations"), 9 VAC 25-580-10 *et seq.*

Respondent was previously notified regarding the RCRA allegations recited herein under cover letter dated January 17, 2012. In accordance with Sections 3008(a)(2) and 9006(a)(2) of RCRA, 42 U.S.C. §§ 6928(a)(2) and 6991e(a)(2), EPA has notified the Commonwealth of Virginia of EPA's intent to enter into a CAFO with Respondent resolving the RCRA violations set forth herein.

General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO, 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, or the enforcement of the CAFO.
4. 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 Final Order, or any right to confer with the Administrator pursuant to RCRA Section 6001(b)(2), 42 U.S.C. § 6961(b)(2).
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
6. Respondent shall bear its own costs and attorney's fees.
7. As to the relevant provisions of RCRA specifically referenced in Counts I through IV herein, Respondent certifies, after reasonable investigation, that it is currently in compliance with all such requirements.

8. The provisions of this CAFO shall be binding upon Complainant and Respondent and any successors, assigns, or other entities or persons otherwise bound by law.
9. 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, RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991i, or any regulations promulgated thereunder.

EPA's Findings of Fact and Conclusions of Law

10. In accordance with the Consolidated Rules at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the findings of fact and conclusions of law which follow.
11. Respondent is the owner and operator of the Joint Expeditionary Base Little Creek-Fort Story ("JEBLC-FS"), Virginia Beach, Virginia. JEBLC-FS, established on October 1, 2009, is comprised of the former Naval Amphibious Base Little Creek and the Army Post, Fort Story.
12. EPA conducted an inspection of that part of JEBLC-FS that was formerly Naval Amphibious Base Little Creek (the "Facility") on June 22 - 25, 2009 ("EPA Inspection").

COUNT I (RCRA SUBTITLE C-OPERATING WITHOUT A PERMIT)

13. Paragraphs 1-12 of this CAFO are incorporated by reference as though fully set forth herein.
14. Respondent is and has been at all times relevant to this CAFO the "owner" and "operator" of a "facility," as those terms are defined by 9 VAC 20-60-260, which, with exceptions not relevant to this term, incorporates by reference 40 C.F.R. § 260.10.
15. Respondent is a department, agency and/or instrumentality of the United States and is a "person" as defined by Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 9 VAC 20-60-260, which, with exceptions not relevant to this term, incorporates by reference 40 C.F.R. § 260.10.
16. Respondent is and, at all times relevant to this CAFO, has been a "generator" of, and has engaged in the "storage" in "containers" of materials that are "solid wastes" and "hazardous waste" at the Facility, as those terms are defined in 9 VAC 20-60-260 and 261, which incorporate by reference 40 C.F.R. §§ 260.10 and 261.2 and .3, including the hazardous waste referred to herein.

17. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 9 VAC 20-60-270 (which incorporates by reference 40 C.F.R. § 270.1(b)) provide, in pertinent part, that a person may not operate a hazardous waste storage, treatment or disposal facility unless such person has first obtained a permit for such facility or has qualified for interim status.
18. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(a), provides that a generator may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status provided that, *inter alia*:
 - a. The waste is placed in containers and the generator complies with the applicable requirements of 40 C.F.R. Part 265, Subparts I, AA, BB and CC;
 - b. The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
 - c. While being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste;" and
 - d. The generator complies with the requirements for owners or operators set forth in 40 C.F.R. Part 265, Subparts B, C, and D, § 265.16, and § 268.7(a)(5).
19. 40 C.F.R. § 262.34(b) provides that a generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 C.F.R. parts 264 and 265 and the permit requirements of 40 C.F.R. part 270 unless he has been granted an extension to the 90-day period.

Waste Determination

20. 9 VAC 20-60-262, which incorporates by reference the requirements of 40 C.F.R. § 262.11, requires that a person who generates a solid waste shall determine if the waste is a hazardous waste using one of the methods therein described.
21. At the time of the EPA Inspection:
 - a. An EPA inspector observed used fuel filters disposed in Building 3859. The fuel filters disposed in Building 3859 were solid wastes. The Facility had not properly determined if these used fuel filters disposed in Building 3859 were hazardous waste.
 - b. An EPA inspector observed five 55-gallon blue unlabeled containers located in Building 3869's hazardous materials storage area. The contents of these five 55-gallon blue unlabeled containers located in Building 3869's hazardous materials storage area were solid wastes. The Facility had not properly

determined if the contents of these five 55-gallon blue unlabeled containers located at Building 3869's hazardous materials storage area were hazardous waste.

- c. An EPA inspector observed a 55-gallon unlabeled and undated black steel drum located near Building CB 125. The contents of this 55-gallon unlabeled and undated black steel drum located near Building CB 125 were solid wastes. The Facility had not properly determined if the contents of this 55-gallon unlabeled and undated black steel drum located near Building CB 125 were hazardous waste.
22. Respondent violated 9 VAC 20-60-262, which incorporates by reference the requirements of 40 C.F.R. § 262.11, by failing to determine if the solid wastes described in Paragraph 21, above, were hazardous wastes.

Container Labeling

23. 9 VAC 20-60-262, which incorporates by reference the requirements of 40 C.F.R. § 262.34(a)(2) and 262.34(a)(3), requires that each container have upon them the date upon which each period of accumulation began and are labeled or marked clearly with the words, "Hazardous Waste" while being accumulated on-site.
24. At the time of the EPA Inspection, there were eleven 1-gallon and two 1-quart containers of hazardous waste which had originated from Building 1522. These eleven 1-gallon and two 1-quart containers did not have upon them the date upon which each period of accumulation began and were not labeled or marked clearly with the words, "hazardous waste."
25. Respondent violated 9 VAC 20-60-262, which incorporates by reference the requirements of 40 C.F.R. §§ 262.34(a)(2) and 262.34(a)(3), by failing to appropriately place upon eleven 1-gallon and two 1-quart containers of waste the date upon which each period of accumulation began and the words "hazardous waste."
26. Because Respondent did not properly characterize its waste, as described in Paragraphs 20-22, above, and did not comply with the container labeling requirements, as described in Paragraphs 23-25, above, Respondent failed to satisfy the conditions set forth at 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34, for a generator to qualify for an exemption from the permit and/or interim status requirements of RCRA Section 3005(a) and (e), 42 U.S.C. § 6925(a) and (e), and 9 VAC 20-60-270 for the hazardous waste management activities described in Paragraphs 20-25, above.
27. Respondent does not have, and at the time of the violations alleged herein, did not have, a permit or interim status to store hazardous waste at the Facility as required by 9 VAC 20-60-270, which incorporates by reference 40 C.F.R. § 270.1(b), and Sections 3005(a) and

(e) of RCRA, 42 U.S.C. §§ 6925(a) and (e).

28. Because of the activities alleged in Paragraphs 20-25, above, Respondent violated 9 VAC 20-60-270, which incorporates by reference 40 C.F.R. § 270.1(b), by operating a hazardous waste storage facility without a permit or interim status.

COUNT II (RCRA—WASTE DETERMINATION)

29. Paragraphs 1 through 28 of the CAFO are incorporated by reference as though fully set forth herein.
30. 9 VAC 20-60-262, which incorporates by reference the requirements of 40 C.F.R. § 262.11, requires that a person who generates a solid waste determine if the waste is a hazardous waste using one of the methods therein described.
31. At the time of the EPA Inspection:
- a. An EPA inspector observed used fuel filters disposed in Building 3859. The fuel filters disposed in Building 3859 were solid wastes. The Facility had not properly determined if these used fuel filters disposed in Building 3859 were hazardous waste.
 - b. An EPA inspector observed five 55-gallon blue unlabeled containers located in Building 3869's hazardous materials storage area. The contents of these five 55-gallon blue unlabeled containers located in Building 3869's hazardous materials storage area were solid wastes. The Facility had not properly determined if the contents of these five 55-gallon blue unlabeled containers located at Building 3869's hazardous materials storage area were hazardous waste.
 - c. An EPA inspector observed a 55-gallon unlabeled and undated black steel drum located near Building CB 125. The contents of this 55-gallon unlabeled and undated black steel drum located near Building CB 125 were solid wastes. The Facility had not properly determined if the contents of this 55-gallon unlabeled and undated black steel drum located near Building CB 125 were hazardous waste.

32. Respondent violated 9 VAC 20-60-262, which incorporates by reference the requirements of 40 C.F.R. § 262.11, by failing to determine if the solid wastes described in Paragraph 31, above, were hazardous wastes.

COUNT III (RCRA SUBTITLE I-SPILL AND OVERFILL PROTECTION)

33. Paragraphs 1 through 32 of the CAFO are incorporated by reference as though fully set forth herein.

34. 9 VAC 25-580-60.4, which incorporates the requirements of 9 VAC 25-580-50.3, requires that all UST systems have specified spill and overfill equipment in order to prevent spilling and overfilling associated with product transfer to the UST system.
35. At the time of the EPA Inspection, Respondent did not have properly functioning overfill equipment for Tanks 1516-3 and 1516-4 at the Marina Building.
36. At the time of the EPA Inspection, Respondent did not have spill or overfill protection for Tank 3856-01 at Building 3856.
37. Respondent violated 9 VAC 25-580-60.4, which incorporates the requirements of 9 VAC 25-580-50.3, by not having properly functioning spill and overfill equipment for the tanks set forth in Paragraphs 35-36.

COUNT IV (RCRA SUBTITLE I-STATE REGISTRATION)

38. Paragraphs 1 through 37 of the CAFO are incorporated by reference as though fully set forth herein.
39. 9 VAC-580-70 requires that the owner of an UST provide notice to the state of the existence of such tank.
40. At the time of the EPA Inspection, Respondent had not provided notice of the existence of Tank 3856-01, located in Building 3856, to Virginia.
41. Respondent violated 9 VAC-580-70 by not providing notice of the existence of Tank 3856-01 to Virginia.

CIVIL PENALTY

42. Respondent consents to the assessment of a civil penalty of thirty two thousand eight hundred dollars (\$32,800.00) in full satisfaction of all claims for civil penalties for the violations alleged in the above alleged four counts of this CAFO. Respondent must pay the civil penalty no later than **SIXTY (60)** calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.
43. For the violations alleged in Counts I - II, EPA considered a number of factors including, but not limited to, the statutory factors set forth in Section 3008(a)(3) of the RCRA, 42 U.S.C. § 6928(a)(3), *i.e.*, the seriousness of Respondent's violations and the good faith efforts by Respondent to comply with the applicable requirements of the RCRA, and the *RCRA Civil Penalty Policy* (2003). EPA has also considered the *Adjustments of Civil Penalties for Inflation and Implementing the Debt Collection Improvement Act of 1996*

(“DCIA”), as set forth in 40 C.F.R. Part 19, and the December 29, 2008 memorandum by EPA Assistant Administrator Granta Y. Nakayama entitled, *Amendments to EPA’s Civil Penalty Policies to Implement the 2008 Civil Monetary Penalty Inflation Adjustment Rule (Effective January 12, 2009)* (“2008 Nakayama Memorandum”), which specify that for violations that occurred after January 30, 1997, statutory penalties and penalties under the RCRA Civil Penalty Policy for, *inter alia*, RCRA Subtitle C violations, were increased 10% above the maximum amount to account for inflation, statutory penalties for, *inter alia*, RCRA Subtitle C violations that occurred after March 15, 2004 through January 12, 2009, were increased by an additional 17.23% above the maximum amount to account for inflation, and statutory penalties for, *inter alia*, RCRA Subtitle C violations that occurred after January 12, 2009, were increased by an additional 9.83% above the maximum amount to account for inflation.

44. For the violations alleged in Counts III - IV, EPA considered a number of factors, including, but not limited to: the statutory factors of the seriousness of Respondent’s violations and any good faith efforts by Respondent to comply with all applicable requirements as provided in RCRA Section 9006(d), 42 U.S.C. § 6991e(d), and EPA’s *Penalty Guidance for Violations of UST Regulations* (“UST Guidance”) dated November 4, 1990. EPA has also considered the DCIA, as set forth in 40 C.F.R. Part 19, and the 2008 Nakayama Memorandum, which specify that for violations that occurred after January 30, 1997, statutory penalties and penalties under the UST Guidance for, *inter alia*, RCRA Subtitle I violations, were increased 10% above the maximum amount to account for inflation, statutory penalties for, *inter alia*, RCRA Subtitle I violations that occurred after March 15, 2004 through January 12, 2009, were increased by an additional 17.23% above the maximum amount to account for inflation, and statutory penalties for, *inter alia*, RCRA Subtitle I violations that occurred after January 12, 2009, were increased by an additional 9.83% above the maximum amount to account for inflation.
45. Payment of the civil penalty amount required under the terms of Paragraph 42, 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 (Docket No. RCRA-03-2012-0206);
- 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
The Customer Service contact for the above method of payment is Eric Volck at 513-487-2105.

- d. All payments made by check and sent by overnight delivery service shall be addressed and sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The Customer Service number for the above method of payment is 314-418-1028.

- e. All electronic wire transfer payments 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"

- f. All payments through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX/Cashlink ACH Receiver
ABA = 051036706
Transaction Code 22 - checking
Account 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury Facility:

5700 Rivertech Court
Riverdale, MD 20737

The Customer Service contact for the above method of payment is John Schmid at

202-874-7026, or REX at 1-866-234-5681.

- g. There is an on-line payment option available through the Department of the Treasury. This payment option can be accessed from: WWW.PAY.GOV. Enter sfo 1.1 in the search field and complete all required fields in the form.
- h. Payment may be made using the Intra Governmental Payment and Collection application (IPAC), ALC 68-01-0727, and Treasury Symbol 681099. Please include the Docket Number of this action (Docket No. RCRA-03-2012-0206) in the description field of the IPAC. The Customer Service contact is Molly Williams at 513-487-2076.
- i. At the same time that any payment is made, Respondent shall mail copies of any corresponding check, or written notification confirming any electronic wire transfer, to:

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

and to

Daniel L. Isales (3RC60)
Environmental Science Center
U.S. Environmental Protection Agency, Region III
701 Mapes Road
Fort Meade, MD 20755-5350

- 46. In accordance with 40 C.F.R. § 13.3, any debt owed to the EPA as a result of Respondent's failure to make timely payments in accordance with Paragraph 45 above, shall be resolved by negotiation between the EPA and Respondent or by referral to the General Accounting Office (since 2004 referred to as the Government Accountability Office (PL-108-271)).

EFFECT OF SETTLEMENT

- 47. Payment of the penalty specified in Paragraph 42, above, in the manner set forth in Paragraph 45, above, shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have under RCRA Subtitle C and RCRA Subtitle I for the specific violations alleged in Counts I - IV, above. Compliance with this CAFO shall

not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

RESERVATION OF RIGHTS

48. This CAFO resolves only the civil claims for monetary penalties for the specific violations alleged in the CAFO. EPA reserves the right to commence action against any person, 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. Respondent reserves all available rights and defenses it may have to defend itself in any such action.

FULL AND FINAL SATISFACTION

49. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Sections 3008 and 9006 of RCRA, 42 U.S.C. §§ 6928 and 6991e, for the specific violations alleged in this CAFO. This CAFO constitutes the entire agreement and understanding of the parties regarding settlement of all claims pertaining to specific violations alleged herein, and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

ANTIDEFICIENCY ACT

50. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligation to comply with RCRA, the applicable regulations thereunder, or with this CAFO. Nothing in this CAFO shall be interpreted to require obligation or payment of funds in violation of the Antideficiency Act, 31 U.S.C. § 1341.

AUTHORITY TO BIND THE PARTIES

51. The undersigned representative of Respondent certifies that he or she is fully authorized by the Respondent to enter into the terms and conditions of this CA and to bind the Respondent to it.


EFFECTIVE DATE

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

For Respondent:

The United States Department of the Navy

23 Jul 12
Date

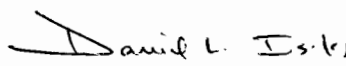


C.L. Stuppard
Captain, U.S. Navy
Commander
Joint Expeditionary Base, Little Creek-Fort Story

For Complainant:

U.S. Environmental Protection Agency,
Region III

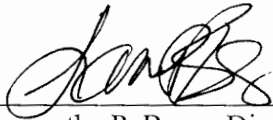
7/25/12
Date




Daniel L. Isaacs
Assistant Regional Counsel
U.S. EPA - Region III

Accordingly, I hereby recommend that the Regional Administrator or his designee, the Regional Judicial Officer, issue the Final Order attached hereto pertaining to Docket No. RCRA-03-2012-0206.

8/1/2012
Date


Samantha P. Beers, Director
Office of Enforcement, Compliance, and
Environmental Justice
U.S. EPA - Region III

8/1/12
Date


Abraham Ferdas, Director
Land and Chemicals Division
U.S. EPA - Region III

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

IN RE: :

United States Department of the Navy, :

Respondent, :

Joint Expeditionary Base Little Creek-Fort Story : **Docket No. RCRA-03-2012-0206**

Virginia Beach, Virginia :

Facility. :

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, the United States Department of the Navy, 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, with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties set forth in the Consent Agreement, I have determined that the penalty assessed herein is based upon a consideration of the factors set forth in Sections 3008(a) and 9006(c) of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6928(a) and 6991e(c), EPA's 2003 RCRA Civil Penalty Policy, EPA's November 1990 Penalty Guidance for Violations of UST Regulations, and the Consolidated Rules of Practice. **IT IS HEREBY ORDERED** that Respondent pay a penalty of thirty two thousand eight hundred dollars (\$32,800.00) in accordance with the foregoing Consent Agreement. Payment shall be made in the manner set forth in the foregoing Consent Agreement. Payment shall reference Respondent's name and address as well as the EPA Docket Number of this Final Order (Docket No. RCRA-03-2012-0206).

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

8/16/12
Date

Renée Sarajian

Renée Sarajian
Regional Judicial Officer
U.S. Environmental Protection Agency, Region III

