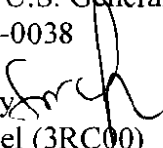
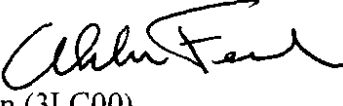


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

SUBJECT: Transmittal Memorandum
Consent Agreement and Final Order
In the Matter of U.S. General Services Administration
RCRA-03-2009-0038

JAN 26 2009

FROM: William C. Early 
Regional Counsel (3RC00)

Abraham Ferdas, Director 
Land and Chemicals Division (3LC00)

TO: William T. Wisniewski (3RA00)
Acting Regional Administrator

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The attached Consent Agreement and Final Order (“CAFO”) have been negotiated pursuant to Sections 9006 and 9007 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. §§ 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).

The 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 its underground storage tanks at Respondent’s facilities located at Ariel Rios Building - North Dock 1201 Constitution Avenue, N.W., Washington, D.C. (“Facility 1”); Ariel Rios Building - South Dock, 1201 Constitution Avenue, N.W., Washington, D.C. (“Facility 2”); Ronald Regan Federal Building, 1300 Pennsylvania Avenue, N.W., Washington, D.C. (“Facility 3”); Postal Square, 2 Massachusetts Avenue, N.E., Washington, D.C. (“Facility 4”); National Building Museum, 401 F. Street, N.W., Washington, D.C. (“Facility 5”); Dwight D. Eisenhower Building, 600 17th Street, N.W., Washington, D.C. (“Facility 6”); Lyndon B. Johnson Building, 400 Maryland Avenue, S.W., Washington, D.C. (“Facility 7”); White House Garage, 1222 22nd Street, N.W., Washington, D.C. (“Facility 8”), (collectively the “Facilities”). Please refer to the CAFO for further details concerning the violations at these Facilities.

Under the terms of the settlement, Respondent will pay a civil penalty in the amount of \$167,446.00. This settlement was determined after consideration of the statutory factors set forth in Section 9006(c) and (e) of RCRA, 42 U.S.C. § 6991e(c) and (e), and other settlement adjustment factors set forth in the “U.S. Penalty Guidance for Violation of UST Regulations” dated November, 1990 (“UST Penalty Policy”).

We concur with the terms of the enclosed Consent Agreement and Final Order. Accordingly, we recommend that you sign the Final Order and return it to the Office of Regional Counsel for further processing.

cc: Christian Guzzano, Esq.
Counsel for Respondent

Louis F. Ramalho, Esq.
U.S. EPA, Region III

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:)
)
U.S. General Services Administration)
301 7th Street, S.W.)
Washington, D.C. 20407)
)
RESPONDENT,)
)
Ariel Rios Building - North Dock)
1201 Constitution Avenue, N.W.)
Washington, D.C. 20004)
)
Ariel Rios Building - South Dock)
1201 Constitution Avenue, N.W.)
Washington, D.C. 20004)
)
Ronald Reagan Federal Building)
1300 Pennsylvania Avenue, N.W.)
Washington, D.C. 20004)
)
Postal Square)
2 Massachusetts Avenue, N.E.)
Washington, D.C. 20002)
)
National Building Museum)
401 F. Street, N.W.)
Washington, D.C. 20001)
)
Dwight D. Eisenhower Building)
600 17th Street, N.W.)
Washington, D.C. 20508)
)
Lyndon B. Johnson Building)
400 Maryland Avenue, S.W.)
Washington, D.C. 20202)
)

U.S. EPA Docket Number
RCRA-03-2009-0038

Proceeding Under Section 9006 of the
Resource Conservation and Recovery Act,
as amended, 42 U.S.C. Section 6991e

CONSENT AGREEMENT

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White House Garage)
1222 22nd Street, N.W.)
Washington, D.C. 20006)
)
FACILITIES.)
)

CONSENT AGREEMENT

This Consent Agreement (“CA”) is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and the United States General Services Administration (“Respondent”), pursuant to Section 9006 and 9007 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. §§ 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).

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 (“UST”) program by Respondent in connection with its underground storage tanks at Respondent’s facilities located at Ariel Rios Building - North Dock 1201 Constitution Avenue, N.W., Washington, D.C. (“Facility 1”); Ariel Rios Building - South Dock, 1201 Constitution Avenue, N.W., Washington, D.C. (“Facility 2”); Ronald Reagan Federal Building, 1300 Pennsylvania Avenue, N.W., Washington, D.C. (“Facility 3”); Postal Square, 2 Massachusetts Avenue, N.E., Washington, D.C. (“Facility 4”); National Building Museum, 401 F. Street, N.W., Washington, D.C. (“Facility 5”); Dwight D. Eisenhower Building, 600 17th Street, N.W., Washington, D.C. (“Facility 6”); Lyndon B. Johnson Building, 400 Maryland Avenue, S.W., Washington, D.C. (“Facility 7”); White House Garage, 1222 22nd Street, N.W., Washington, D.C. (“Facility 8”), (collectively the “Facilities”).

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, through this final authorization, are enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The District of Columbia’s authorized UST program 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.*

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 Consent Agreement ("CA"), the issuance of the attached Final Order ("FO"), or the enforcement thereof, and Respondent admits the jurisdictional allegations set forth in this 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. In addition, Respondent waives its right to confer with the Administrator pursuant to RCRA § 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. The provisions of this CAFO shall be binding upon Respondent, and its officers, directors, employees, successors and assigns.
8. 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 I, 42 U.S.C. §§ 6991-6991m, or any regulations promulgated thereunder.
9. Complainant shall have the right to institute further actions to recover appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to EPA regarding matters at issue in the CAFO are false or, in any material respect, inaccurate. Respondent is aware that the submission of false or misleading information to the United States government may subject Respondent to separate civil and/or criminal liability.
10. EPA has given the District of Columbia prior notice of the issuance of this CAFO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW

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, 40 C.F.R. Part 280 and 40 C.F.R. § 22.1(a)(4) and .4(c).

11. At all times relevant to this CAFO, Respondent 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 Facilities set forth herein.
12. Respondent, General Services Administration (GSA), is a department, agency, and/or instrumentality of the United States as referred to in Section 9007 of RCRA, 42 U.S.C. § 6991f, and is a “person” as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 20 DCMR § 6899.1.
13. On May 16, 2007, EPA performed a Compliance Evaluation Inspection (“CEI”) at Facility 1. At the time of the May 16, 2007 CEI, and at all times relevant to the violations alleged herein, one (1) UST was located at Facility 1 as described in the following subparagraph:

Facility 1 - Ariel Rios Building - North Dock

- A. A twenty-five hundred (2,500) gallon double-walled fiberglass reinforced plastic tank that was installed in or about 1996, 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 No. 1”).

14. On May 16, 2007, EPA performed a CEI at Facility 2. At the time of the May 16, 2007 CEI, and at all times relevant to the violations alleged herein, one (1) UST was located at Facility 2 as described in the following subparagraph:

Facility 2 - Ariel Rios Building - South Dock

- A. A twenty-five hundred (2,500) gallon double-walled fiberglass reinforced plastic tank that was installed in or about 1997, 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 No. 2”).

15. On May 16, 2007, EPA performed a CEI at Facility 3. At the time of the May 16, 2007 CEI, and at all times relevant to the violations alleged herein, one (1) UST was located at Facility 3 as described in the following subparagraph:

Facility 3 - Ronald Reagan Federal Building

- A. A six thousand (6,000) gallon double-walled steel tank that was installed in or about 1996, 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 No. 3”).

16. On March 19, 2007, EPA performed a CEI at Facility 4. At the time of the March 19, 2007 CEI, and at all times relevant to the violations alleged herein, one (1) UST was located at Facility 4 as described in the following subparagraph:

Facility 4 - Postal Square

- A. A ten thousand (10,000) gallon fiberglass reinforced plastic tank that was installed in or about 1990, 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 No. 4”).

17. On June 8, 2007, EPA performed a CEI at Facility 5. At the time of the June 8, 2007 CEI, and at all times relevant to the violations alleged herein, one (1) UST was located at Facility 5 as described in the following subparagraph:

Facility 5 - National Building Museum

- A. A five hundred fifty (550) gallon steel tank that was installed in or about 1987, 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 No. 5”).

18. On July 5, 2007, EPA performed a CEI at Facility 6. At the time of the June 5, 2007 CEI, and at all times relevant to the violations alleged herein, three (3) USTs were located at Facility 6 as described in the following subparagraphs:

Facility 6 - Dwight D. Eisenhower Building

- A. A twenty-five hundred (2,500) gallon double-walled fiberglass reinforced plastic tank that was installed in or about 2000, and that, at all times relevant hereto, routinely contained and was used to store kerosene, 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 No. 6”);
- B. A twenty-five hundred (2,500) gallon double-walled fiberglass reinforced plastic tank that was installed in or about 2000, 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 No. 7”);
-

and

- C. A six thousand (6,000) gallon double-walled fiberglass reinforced plastic tank that was installed in or about 2006, 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 No. 8”).

- 19. On June 19, 2007, EPA performed a CEI at Facility 7. At the time of the June 19, 2007 CEI, and at all times relevant to the violations alleged herein, one (1) UST was located at Facility 7 as described in the following subparagraph:

Facility 7 - Lyndon B. Johnson Building

- A. A four thousand (4,000) gallon double-walled fiberglass reinforced plastic tank that was installed in or about 1995, 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 No. 9”).

- 20. On December 6, 2006, EPA performed a CEI at Facility 8. At the time of the December 6, 2006 CEI, and at all times relevant to the violations alleged herein, one (1) UST was located at Facility 8 as described in the following subparagraph:

Facility 8 - White House Garage

- A. A six thousand (6,000) gallon double-walled fiberglass reinforced plastic tank that was installed in or about 2002, 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 No. 10”).

- 21. At all times relevant to the violations alleged herein, USTs Nos. 1 through 3, and 6 through 10 have been “petroleum UST systems” and “new tank systems” as these terms are defined in 20 DCMR § 6899.1, respectively.
- 22. At all times relevant to the violations alleged herein, USTs Nos. 4 and 5 have been “petroleum UST systems” and “existing tank systems” as these terms are defined in 20 DCMR § 6899.1, respectively. On February 15, 2008, UST No. 5 was closed by Respondent in accordance with 20 DCMR § 6101.
- 23. Respondent’s USTs Nos. 1 through 10 are and were, at all times relevant to the violations alleged in this CAFO, used to store a “regulated substance”, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1, and have not been “empty” as that term is defined at 20 DCMR § 6100.7.

COUNT 1 - 7
(Failure to notify)

24. The allegations of Paragraphs 1 through 23 of this CAFO are incorporated herein by reference.
25. 20 DCMR § 5602.2 provides that owners and operators of UST systems must submit to the District of Columbia Department of the Environment (“DOE”) notification for all UST systems in accordance with 20 DCMR § 5600.
26. 20 DCMR § 5600.1 provides that any owner who has an underground storage tank or UST system that is in the ground on May 8, 1986, or was brought into use thereafter, or who brings an UST or UST system into use after the effective date of these regulations, May 4, 1998, shall submit a notice of existence of the UST or UST system to the Director of DOE.
27. Respondent brought into use USTs Nos. 1 through 10 after May 8, 1986 or after the effective date of these regulations, May 4, 1998, as described in Paragraphs 13 through 21, respectively.
28. From January 1, 2004 through May 3, 2007, Respondent failed to notify DOE that UST No. 1 was brought into use at Facility 1.
29. From January 1, 2004 through May 12, 2007, Respondent failed to notify DOE that UST No. 2 was brought into use at Facility 2.
30. From January 1, 2004 through May 23, 2007, Respondent failed to notify DOE that UST No. 3. was brought into use at Facility 3.
31. From January 1, 2004 through February 15, 2008, Respondent failed to notify DOE that UST No. 5 was brought into use at Facility 5.
32. From January 1, 2004 through March 20, 2008, Respondent failed to notify DOE that USTs Nos. 7 and 8 were brought into use at Facility 6.
33. From January 1, 2004 through September 27, 2007, Respondent failed to notify DOE that UST No. 9 was brought into use at Facility 7.
34. Respondent’s failure to notify DOE that UST Nos. 1 through 3 and USTs Nos. 5, 7, 8, and 9 were brought into use, as described in Paragraphs 28 through 33, respectively, constitutes violations by Respondent of 20 DCMR §§ 5602.2 and 5600.1.

COUNTS 8 - 15

(Failure to meet the UST system performance standards for spill and overflow prevention for USTs)

35. The allegations of Paragraphs 1 through 34 of this CAFO are incorporated herein by reference.
 36. 20 DCMR § 5705.1 provides, except as provided in 20 DCMR § 5705.3, that each owner and operator must use spill prevention equipment (such as a spill catchment basin) that will prevent release of regulated substances when the transfer hose is detached from the fill pipe to prevent spilling associated with the transfer of regulated substances to an UST system .
 37. 20 DCMR § 5705.2 provides, except as provided in 20 DCMR § 5705.3, that to prevent overfilling associated with the transfer of regulated substances, each owner and operator must use overflow prevention equipment that does the following:
 - (a) Automatically shuts off flow into the tank when the tank is no more than ninety-five percent (95%) full; or
 - (b) Alerts the transfer operator when the tank is no more than ninety percent (90%) full by restricting the flow into the tank or triggering a high-level alarm.
 38. 20 DCMR § 5803.1 provides that all existing UST systems shall comply with new UST system spill and overflow prevention equipment requirements specified in 20 DCMR § 5705 to prevent spilling and overfilling associated with product transfer to the UST system.
 39. From March 26, 2007 through February 8, 2008, Respondent failed to maintain certain spill prevention equipment for UST No. 2 at Facility 2 as described in 20 DCMR § 5705.1. Such UST did not fall within the exception in 20 DCMR § 5705.3, and such UST was not in compliance with the closure requirements of 20 DCMR Chapter 61.
 40. From January 1, 2004 through February 8, 2008, Respondent failed to maintain certain overflow prevention equipment for UST No. 2 at Facility 2 as described in 20 DCMR § 5705.2. Such UST did not fall within the exception in 20 DCMR § 5705.3, and such UST was not in compliance with the closure requirements of 20 DCMR Chapter 61.
 41. From January 1, 2004 through November 30, 2008, Respondent failed to maintain certain overflow prevention equipment for UST No. 4 at Facility 4 as described in 20 DCMR § 5705.2. Such UST did not fall within the exception in 20 DCMR § 5705.3, and such UST was not in compliance with the closure requirements of 20 DCMR Chapter 61.
 42. From January 1, 2004 through February 15, 2008, Respondent failed to maintain certain overflow prevention equipment for UST No. 5 at Facility 5 as described in 20 DCMR
-

§ 5705.2. Such UST did not fall within the exception in 20 DCMR § 5705.3, and such UST was not in compliance with the closure requirements of 20 DCMR Chapter 61.

43. From January 1, 2004 through November 30, 2008, Respondent failed to maintain certain overfill prevention equipment for USTs Nos. 6 and 8 at Facility 6 as described in 20 DCMR § 5705.2. Such USTs did not fall within the exception in 20 DCMR § 5705.3, and such USTs were not in compliance with the closure requirements of 20 DCMR Chapter 61.
44. From January 1, 2004 through September 1, 2007, Respondent failed to maintain certain overfill prevention equipment for UST No. 10 at Facility 8 as described in 20 DCMR § 5705.2. Such UST did not fall within the exception in 20 DCMR § 5705.3, and such UST was not in compliance with the closure requirements of 20 DCMR Chapter 61.
45. Respondent's acts and/or omissions as alleged in Paragraphs 39 through 44, above, constitute violations by Respondent of 20 DCMR § 5705.1, § 5705.2, and/or § 5803.1.

COUNT 16

(Failure to provide corrosion protection on the metal piping for new UST systems)

46. The allegations of Paragraphs 1 through 45 of this CAFO are incorporated herein by reference.
 47. 20 DCMR § 5704.1 provides, *inter alia*, that piping for a new UST system that routinely contains a regulated substance 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 and Regulatory Affairs and in accordance with the BOCA Fire Prevention Code.
 48. 20 DCMR § 5704.2 provides, in pertinent part, that underground storage system piping shall be constructed of (a) fiberglass-reinforced plastic, or (b) steel that is cathodically protected in accordance with the requirements of 20 DCMR § 5701.3.
 49. 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.
 50. 20 DCMR § 5901.6 provides that each UST system with an impressed current cathodic protection system shall also be inspected every sixty (60) days to ensure the equipment is running properly.
-

51. From January 1, 2004 through November 30, 2008, the underground piping for UST No. 3 at Facility 3 was made of steel, routinely contained regulated substances, and was in contact with earthen materials.
52. From January 1, 2004 through November 30, 2008, the metal piping for UST No. 3 at Facility 3 was not protected from corrosion in accordance with 20 DCMR § 5704.1, .2, and/or .3.
53. Respondent's act and/or omission as alleged in Paragraphs 51 and 52, above, constitutes violations by Respondent of 20 DCMR § 5704.1, .2, and/or .3.

COUNTS 17 - 18

(Failure to provide corrosion protection on the metal piping for existing UST systems)

54. The allegations of Paragraphs 1 through 53 of this CAFO are incorporated herein by reference.
55. 20 DCMR § 5700.1 provides, in pertinent part, that the owner and operator of each existing UST system shall insure that the UST system installed on or before December 22, 1988 meets the upgrade requirements set forth in Chapter 58 on or before December 22, 1998.
56. 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 tank 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.
57. 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.
58. 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).
59. 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.

60. 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.
61. 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: (1) the piping be constructed of fiberglass-reinforced plastic; or (2) the piping be constructed of steel and cathodically protected in the following manner: (i) the piping is coated with a suitable dielectric material; (ii) 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 § 280.31 or guidelines established by the implementing agency; and (iv) cathodic protection systems are operated and maintained in accordance with § 280.31 or guidelines established by the implementing agency; or (3) the piping is 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 to not 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 (4) 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 (b)(1) through (3).
62. From January 1, 2004 through July 31, 2008, the underground piping for UST No. 4 at Facility 4 was made of steel, routinely contained regulated substances, and was in contact with earthen materials.
63. From January 1, 2004 through February 15, 2008, the underground piping for UST No. 5 at Facility 5 was made of steel, routinely contained regulated substances, and was in contact with earthen materials.
64. From January 1, 2004 through July 31, 2008, the metal piping for UST No. 4 at Facility 4 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 fo 40 C.F.R. § 280.20.

65. From January 1, 2004 through February 15, 2008, the metal piping for UST No. 5 at Facility 5 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.
66. From January 1, 2004 through July 31, 2008, Respondent's UST No. 4 was not in compliance with the permanent closure requirements of 20 DCMR Chapter 60, as allowed by 20 DCMR § 5800.1(d).
67. From January 1, 2004 through February 15, 2008, Respondent's UST No. 5 was not in compliance with the permanent closure requirements of 20 DCMR Chapter 60, as allowed by 20 DCMR § 5800.1(d).
68. Respondent's act and/or omission as alleged in Paragraphs 62 through 67, above, constitutes a violation by Respondent of 20 DCMR §§ 5800.1, and 5802.1 and/or 5802.2.

COUNT 19

(Failure to test cathodic protection system on UST)

69. Paragraphs 1 through 68 of this CAFO are incorporated by reference as if fully set forth herein.
70. 20 DCMR § 5901.1 provides that each owner and operator of a steel UST system or a steel-fiberglass-reinforced plastic composite UST system with corrosion protection shall comply with the requirements of 20 DCMR § 5901 to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances.
71. 20 DCMR § 5901.4 provides that each steel or steel-fiberglass-reinforced plastic composite UST system equipped with a cathodic protection system must be inspected for proper operation by a qualified cathodic protection tester within 6 months of installation and at least once every 3 years thereafter.
72. UST No. 5 is and, from January 1, 2004 through November 30, 2008, was a steel UST systems used to store regulated substances and was equipped with "cathodic protection" within the meaning of 20 DCMR § 5901.4.
73. From January 1, 2004 through November 30, 2008, Respondent failed to test the cathodic protection system for UST No. 5 at Facility 5 as required by 20 DCMR § 5901.4.
74. Respondent's act and/or omission as alleged in Paragraph 73, above, constitute violations by Respondent of 20 DCMR § 5901.4.

COUNT 20

(Failure to perform release detection on UST)

75. The allegations of Paragraphs 1 through 74 of this CAFO are incorporated herein by reference.
76. 20 DCMR § 6000.1 provides that each owner and operator of a new or existing UST system shall provide a method, or combination of methods, of release detection that meets the requirements described therein.
77. Pursuant to 20 DCMR §§ 6003.1 through 6003.5, tanks which are part of a petroleum UST system must be monitored at least every 30 days for releases using one of the methods listed in 20 DCMR §§ 6008 through 6012, except that: (1) prior to December 22, 1995, certain UST systems could have been monitored using a combination of inventory control and tank tightness testing in compliance with the requirements of 20 DCMR §§ 6005 through 6007; and (2) tanks with a capacity of 550 gallons or less may use weekly tank gauging conducted in accordance with 20 DCMR § 6006.
78. From January 1, 2004 through November 30, 2006, Respondent's UST No. 10 has not been monitored in compliance with any of the methods set forth in 20 DCMR § 6003.3 through 6003.5 and/or 20 DCMR §§ 6005 through 6012.
79. Respondent's acts and/or omissions as alleged in Paragraph 78, above, constitute violations by Respondent of 20 DCMR §§ 6000.1 and 6003.

COMPLIANCE ORDER

80. Pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, Respondent is hereby ordered to:
 - A. Within sixty (60) days of the effective date of this Compliance Order, notify DOE of USTs Nos. 1 through 3, and USTs Nos. 7 through 9 brought into use at Facilities 1 through 3, Facility 5, and Facilities 6 and 7.
 - B. Within two hundred seventy (270) days of the effective date of this Compliance Order, meet the UST system performance standards for spill and overflow prevention for USTs Nos. 2, 4, 8, and 10 in accordance with 20 DCMR § 5705.1, § 5705.2, and/or § 5803.1.
 - C. Within two hundred seventy (270) days of the effective date of this Compliance Order, provide corrosion protection on the metal piping for UST No. 3 at Facility 3 in accordance with 20 DCMR § 5704.1, .2, and/or .3.
 - D. Within two hundred seventy (270) days of the effective date of this Compliance Order, provide corrosion protection on the metal piping for UST No. 4 in accordance with 20 DCMR § 5800.1.
-

- E. Within sixty (60) days of the effective date of this Compliance Order, perform release detection on UST No. 10 in compliance with any of the applicable methods set forth in 20 DCMR § 6003.3 through 6003.5 and/or 20 DCMR §§ 6005 through 6012.
 - F. Within ninety (90) days of the effective date of this Compliance Order, submit to EPA a report which documents and certifies Respondent's compliance with items A and E of this Compliance Order.
 - G. Within three hundred (300) days of the effective date of this Compliance Order, submit to EPA a report which documents and certifies Respondent's compliance with items B, C, and D of this Compliance Order.
 - H. If Respondent elects to close the UST subject to this Compliance Order, Respondent must submit to EPA, within fifteen (15) calendar days after Respondent's election to close, a notice of intent to permanently close, and identifying the UST it intends to close. Such notice shall be sent to Marie Owens, U.S. EPA, Region III at the address set forth below. A copy of such notice shall also be sent to Alex Bako, Department of the Environment, District of Columbia at the address set forth below.
81. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this CAFO which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this CAFO shall be certified by a principal executive officer or ranking elected official as defined at 40 C.F.R. § 270.11(a).

The certification required above shall be in the following form:

I certify that the information contained in or accompanying this [type of submission] is true, accurate, and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: _____

Name: _____

Title: _____

82. All documents and reports to be submitted pursuant to this CAFO shall be sent to the following persons:

- a. Documents to be submitted to EPA shall be sent either by overnight mail or by certified mail, return receipt requested to:

Marie Owens (3LC70)
U. S. Environmental Protection Agency Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103

- b. One copy of all documents submitted to EPA shall be sent by first class mail to:

Mr. Alex Bako
Associate Director, Toxic Substance Division
Department of the Environment
District of Columbia
51 N Street, N.E. 6th Floor
Washington, D.C. 20002

CIVIL PENALTY

83. In settlement of Complainant's claims for civil penalties for the violations alleged in this CA, Respondent agrees to pay a civil penalty in the amount of One Hundred Sixty Seven Thousand Four Hundred Forty-Six Dollars (\$167,446.00) and perform the tasks set forth in the Compliance Order. The civil penalty amount is due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO.

84. The aforesaid settlement amount was based upon Complainant's consideration of 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(c) - (e), 42 U.S.C. § 6991e(c) - (e), and with EPA's Penalty Guidance for Violations of UST Regulations ("UST Guidance") dated November 4, 1990.

85. Respondent shall pay the amount described in Paragraph 83, above, by sending a certified or cashier's check payable to the "United States Treasury," as follows:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2008-0038;
- 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: Natalie Pearson, 314-418-4087

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

U.S. Environmental Protection Agency–Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson, 314-418-4087

- e. 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"

- f. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact: Jesse White 301-887-6548

ABA = 051036706
Transaction Code 22 - Checking
Environmental Protection Agency
Account 310006
CTX Format

- g. On-Line Payment Option:

WWW.PAY.GOV

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

- h. The customer service phone numbers for the above payment centers are:

212-720-5000 (wire transfers, Federal Reserve Bank of New York)
800-762-4224 (ACH/Wire Info, PNC Bank)

Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment_cin.htm

A copy of Respondent's check or a copy of Respondent's electronic transfer shall be sent simultaneously to:

Regional Hearing Clerk (3RC00)
EPA Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103 - 2029, and

Louis F. Ramalho
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

FULL AND FINAL SATISFACTION

86. This CAFO constitutes a settlement by EPA of its claims for civil penalties pursuant to 9006(a) of RCRA, 42 U.S.C. § 6991e(a), for the violations alleged in this Consent Agreement.

RESERVATION OF RIGHTS

87. 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.

OTHER APPLICABLE LAWS

88. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed on it by applicable federal, state or local law and/or regulations. Nothing in this CA shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, or other applicable law.

AUTHORITY TO BIND THE PARTIES

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

[- The balance of this page has been intentionally left blank. -]

ENTIRE AGREEMENT

90. 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

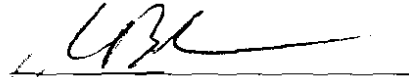
91. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

For Respondent:

JAN 12 2009

Date

U.S. General Services Administration



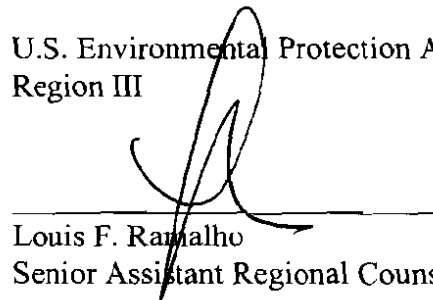
Bart Bush
Assistant Regional Administrator
Public Buildings Service
U.S. General Services Administration
National Capital Region

For Complainant:

1/21/2009

Date

U.S. Environmental Protection Agency,
Region III



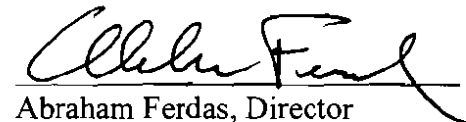
Louis F. Ramalho
Senior Assistant Regional Counsel

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.

1/21/09

Date

By:



Abraham Ferdas, Director
Land and Chemicals Division
EPA Region III

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:)
)
U.S. General Services Administration)
301 7th Street, S.W.)
Washington, D.C. 20407)
)
RESPONDENT,)
)
Ariel Rios Building - North Dock)
1201 Constitution Avenue, N.W.)
Washington, D.C. 20004)
)
Ariel Rios Building - South Dock)
1201 Constitution Avenue, N.W.)
Washington, D.C. 20004)
)
Ronald Reagan Federal Building)
1300 Pennsylvania Avenue, N.W.)
Washington, D.C. 20004)
)
Postal Square)
2 Massachusetts Avenue, N.E.)
Washington, D.C. 20002)
)
National Building Museum)
401 F. Street, N.W.)
Washington, D.C. 20001)
)
Dwight D. Eisenhower Building)
600 17th Street, N.W.)
Washington, D.C. 20508)
)
Lyndon B. Johnson Building)
400 Maryland Avenue, S.W.)
Washington, D.C. 20202)
)

U.S. EPA Docket Number
RCRA-03-2009-0038

Proceeding Under Section 9006 of the
Resource Conservation and Recovery Act,
as amended, 42 U.S.C. Section 6991e

FINAL ORDER

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RECEIVED

White House Garage)
1222 22nd Street, N.W.)
Washington, D.C. 20006)
)
FACILITIES.)
)

FINAL ORDER

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, U.S. General Services Administration, have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.\

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the *Consolidated Rules of Practice* and Section 9006(c) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991e(c) ("RCRA"), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 9006(c) and (e) of RCRA, 42 U.S.C. § 6991e(c) and (e), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of One Hundred Sixty Seven Thousand Four Hundred Forty-Six Dollars (\$167,446.00) 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, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: JAN 26 2009



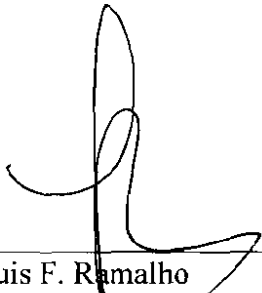
William T. Wisniewski
Acting Regional Administrator
U.S. EPA, Region III

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date listed below, the original of the foregoing Consent Agreement and Final Order, EPA Docket No. TSCA-03-2009-0038, was filed with the Regional Hearing Clerk, U.S. EPA - Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and that a true and correct copy was sent to the following:

Christian A. Guzzano
Assistant Regional Counsel, WL
General Services Administration
301 7th Street, S.W.; Room 7048
Washington, D.C. 20407

1/26/09
Date



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

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RECEIVED

