

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: L. RAMAHO
Name of Contact person

6/15/09
Date

in the ORC
Office

at X 2681
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
U.S. DEPT OF THE INTERIOR NATL PARK SERVICE

The Total Dollar Amount of Receivable \$ 26,798
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number RCRA-03-2009-0102

The Site-Specific Superfund Acct. Number _____

The Designated Regional/HQ Program Office LAND CHEMICALS DIV. OFFICE OF LAND 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. U.S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-002)
Cincinnati, OH 45268
- 2. Originating Office (ORC)
- 3. Designated Program Office

Attn: Lori Weidner

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

FEDERAL EXPRESS

June 15, 2009

Amy Hornor, Esquire
Department of the Interior
1849 C Street, NW
Mailstop 3210
Washington, DC 20240

Re: Consent Agreement and Final Order
Wolf Trap National Park
RCRA-03-2009-0102

Dear Ms.Hornor:

Enclosed please find a fully executed copy of the Consent Agreement and Final Order (CAFO) in settlement of the above referenced subject matter.

Should you have any further questions or concerns, please feel free to call me at (215) 814-2681.

Sincerely,


Louis F. Ramalho
Sr. Assistant Regional Counsel

Enclosures

cc: G. Morton (3WC31)
Deniz Ergener, Esq. (2272-A)



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

In the Matter of:)	
)	
U.S Department of the Interior)	
National Park Service)	U.S. EPA Docket Number
)	Docket No. RCRA-03-2009-0102
)	
RESPONDENT,)	Proceeding Under Section 9006 of the
)	Resource Conservation and Recovery
)	Act, as amended, 42 U.S.C. § 6991e
)	
Wolf Trap National Park)	
1551 Trap Road)	
Vienna, Virginia 22182)	
)	
FACILITY.)	
)	

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

This Consent Agreement ("CA") and the Final Order ("FO"), collectively "CAFO", resolve all claims for civil penalties which the United State Environmental Protection Agency, Region III ("EPA" or "Complainant") has against U.S. Department of the Interior, National Park Service ("Respondent") under Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6991e, for alleged violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the Commonwealth of Virginia's federally authorized underground storage tank program by Respondent in connection with its underground storage tanks ("USTs") at Respondent's facility located at 1551 Trap Road, Vienna, Virginia (the "Facility").

Effective October 28, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the Commonwealth of Virginia 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 Commonwealth of Virginia UST

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management program, through this final authorization, are enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The Commonwealth of Virginia's authorized UST program regulations are set forth in Virginia Administrative Code, "Underground Storage Tanks: Technical Standards and Corrective Action Requirements" and will be cited hereinafter as 9 VAC 25-580 *et seq.*

EPA has given the Commonwealth of Virginia notice of the issuance of this CAFO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

II. GENERAL PROVISIONS

1. For purposes of this proceeding only, Respondent admits to 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 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. In addition, Respondent waives its 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. The person signing this CA on behalf of the Respondent certifies to EPA by his/her signature herein that Respondent, as of the date of this CA, is in compliance with the provisions of RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991m, and the Commonwealth of Virginia's federally authorized UST program set forth at 9 VAC 25-580 *et seq.* at the Facility referenced herein.
8. The provisions of this CAFO shall be binding upon Respondent and its successors and assigns.
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 I, 42 U.S.C. §§ 6991-6991m, or any regulations promulgated thereunder.

10. 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 this CAFO are false or, in any material respect, inaccurate. Respondent is aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

III. FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW

11. 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 Sections 9006 and 9007 of RCRA, 42 U.S.C. § 6991e and §6991f, 40 C.F.R. Part 280 and 40 C.F.R. § 22.1(a)(4) and § 22.4(c).
12. Respondent is a “department”, “agency”, and/or “instrumentality” subject to 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 9 VAC 25-580-10.
13. At all times relevant to this CAFO, Respondent has been the “owner”, as this term is defined in Section 9001(4) of RCRA, 42 U.S.C. § 6991(4), and 9 VAC 25-580-10, of the “underground storage tank(s)” (“USTs”) and “UST system(s)” as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and 9 VAC 25-580-10, located at the Facility.
14. On July 25, 2007, an EPA representative conducted a Compliance Evaluation Inspection (“CEI”) of the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
15. At the time of the July 25, 2007 CEI, and at all times relevant to the applicable violations alleged herein, two (2) USTs were located at the Facility. One tank (“UST No. 1”), a two thousand five hundred (2,500) gallon double wall fiberglass tank, was installed on May 13, 1996. At all times relevant hereto, UST No. 1 routinely contained unleaded regular gasoline, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10. The second UST (“UST No. 2”), a one thousand (1,000) gallon double wall fiberglass tank, was installed on May 13, 1996. At all times relevant hereto, UST No. 2 routinely contained diesel, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10.

16. At all times relevant to the applicable violations alleged herein, the USTs have been "petroleum UST" and "new tank" systems, as these terms are defined in 9 VAC 25-580-10, respectively.
17. At all times relevant to the applicable violations alleged herein, the USTs were used to store "regulated substance(s)" at the Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC 25-580-10, and have not been "empty" as that term is defined at 9 VAC 25-580-10.
18. Pursuant to RCRA Section 9005, 42 U.S.C. § 6991d, on October 4, 2007, EPA issued an Information Request to Respondent concerning its petroleum UST systems at the Facility.

COUNT #1
**(Failure to conduct release detection on
the UST No. 2 every thirty (30) days.)**

19. The allegations of Paragraphs 1 through 18 of the CA are incorporated herein by reference.
20. 9 VAC 25-580-130 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.
21. Pursuant to 9 VAC 25-580-140 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 9 VAC 25-580-160, with exceptions not relevant to this matter.
22. From the time of installation until the date of this CA, the method of release detection selected by Respondent for UST No.2 has been interstitial monitoring and 0.2 gallons per hour ("gph") testing conducted by the Incon TS-1000 Tank Sentinel in accordance with 9 VAC 25-580-160(7).
23. Respondent determined on November 2, 2007 that the Incon system was not programmed to conduct release detection tests on UST No. 2 prior to November 2, 2007.
24. Until November 2007, Respondent failed to monitor UST No. 2 for releases every thirty days in accordance with 9 VAC 25 580-140 and 9 VAC 25 580-160(7).
25. During the period of time indicated in Paragraph 24 above, Respondent did not use any of the other release detection methods specified in 9VAC 25-580-160 for UST No. 2.

26. Respondent's acts and/or omissions, as alleged in Paragraphs 24 and 25 above, constitute violations by Respondent of 9 VAC 25-580-140.

COUNT #2

(Failure to notify the state or local agency of an existing tank.)

27. The allegations of Paragraphs 1 through 26 of the CA are incorporated herein by reference.
28. 9 VAC 25-580-70 provides that any owner who brings an underground storage tank system into use after May 8, 1986, must within 30 days of bringing such tank into use, submit to the Virginia State Water Control Board a notice of existence of such tank system.
29. Until August 29, 2007, Respondent failed to notify the Virginia State Water Control Board of USTs No. 1 and No. 2, in accordance with 9 VAC 25-580-70.
30. Respondent's act and/or omission, as alleged in paragraph 29 above, constitutes a violation of 9 VAC 25-580-70.

COUNT #3

(Failure to maintain records of release detection monitoring for UST No. 1.)

31. The allegations of Paragraphs 1 through 30 of the CA are incorporated herein by reference.
32. 9 VAC 25-580-180(2) provides, in pertinent part, that each owner and operator of a new or existing UST system shall maintain records of sampling, testing or monitoring, including release detection monitoring, for at least one year.
33. From April 1, 2007 through June 30, 2008, Respondent failed to maintain records of release detection monitoring for UST No. 1 as required by 9 VAC 25-580-180(2).
34. Respondent's act and/or omission, as alleged in paragraph 33 above, constitutes a violation of 9 VAC 25-580-180(2).

IV. CIVIL PENALTY

35. Respondent agrees to pay a civil penalty in the amount of Twenty-Six Thousand Seven Hundred Ninety Eight Dollars (\$26,798.00) in full satisfaction of all claims for civil penalties which EPA has under Section 9006 of RCRA, 40 U.S.C. §6991e, 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. 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.

36. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors set forth in RCRA Section 9006(c)-(e), 42 U.S.C. § 6991(c)-(e), and EPA's Penalty Guidance for Violations of UST Regulations ("UST Guidance") dated November 4, 1990.
37. Respondent shall pay the amount described in Paragraph 35, above, by sending a certified or cashier's check payable to the "United States Treasury," as follows:

By Regular US Postal Service Mail:

U.S. EPA, Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

By Private Commercial Overnight Delivery:

U.S. EPA, Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
(314) 418-4087

Payment of the penalty as required by this CAFO may also be made by electronic transfer to:

Wire Transfers

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 wire transfer message should read:
"D 68010727 Environmental Protection Agency")

Automated Clearing House (ACH) Transfers

PNC Bank
ABA = 051036706
Environmental Protection Agency
Account 310006
CTX Format
Transaction Code 22 - checking
808 17th Street, NW
Washington, DC 20074

On-Line Payment Option:
WWW.PAY.GOV

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

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

212-720-5000 (wire transfers, Federal Reserve Bank of New York)
1-800-762-4224 (ACH/Wire Info, PNC Bank)

Additional payment guidance is available at:
http://www.epa.gov/ocfo/finservicces/make_a_payment_cin.htm

Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO. 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

Deniz Ergener
Attorney-Advisor
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W. Mailcode:2272A
Washington D.C. 20460

V. FULL AND FINAL SATISFACTION

38. 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.

VI. RESERVATION OF RIGHTS

39. 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.
40. 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.

VII. OTHER APPLICABLE LAWS

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

VIII. AUTHORITY TO BIND THE PARTIES

42. 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 Respondent hereto.

IX. ENTIRE AGREEMENT

43. 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.

X. EFFECTIVE DATE

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

For Respondent:

U.S. Department of the Interior
National Park Service

3/30/09
Date

By: William J. Crockett
William J. Crockett
Director of Wolftrap National Park for the
Performing Arts

For Complainant:

U.S. Environmental Protection Agency,
Region III

5.11.09
Date

By: Deniz Ergener
Deniz Ergener
Attorney-Advisor

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.

6/2/09
Date

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

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

In the Matter of:)	
)	
U. S. Department of the Interior National Park Service)	U.S. EPA Docket Number Docket No. RCRA-03-2009-0102
)	
)	Proceeding Under Section 9006(a) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6991e(a).
RESPONDENT,)	
)	
Wolf Trap National Park 1551 Trap Road Vienna, Virginia 22182)	FINAL ORDER
)	
)	
FACILITY.)	
)	
)	

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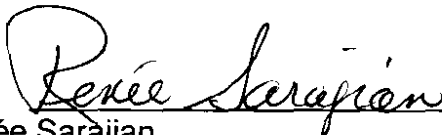
FINAL ORDER

Complainant, the Director for Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, U. S. Department of the Interior, National Park Service, 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)-(e) of RCRA, 42 U.S.C. § 6991e(c)-(e), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of Twenty-Six Thousand Seven Hundred Ninety Eight Dollars (\$26,798.00) 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: 6/9/09




Renée Sarajian
Regional Judicial Officer
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, Docket No. **RCRA-03-2009-0102** 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 party:

Amy Hornor, Esquire
Department of the Interior
1849 C Street, NW
Mailstop 3210
Washington, DC 20240

6/15/09
Date



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

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