



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

In Reply Refer To Mail Code: 3RC50

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUN 16 2014

Channing J. Martin
Williams Mullen Center
200 South 10th Street
P.O. Box 1320 (23218-1320)
Richmond, Virginia 23219

Re: Consent Agreement and Final Order
EPA Docket No.: RCRA-03-2014-0104

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EPA REGION III, PHILA. PA

Dear Mr. Martin;

Enclosed is a copy of the CONSENT AGREEMENT AND FINAL ORDER filed today with the Regional Hearing Clerk settling the matter referenced above. For your files, I am also enclosing a copy of the supporting memorandum from Environmental Protection Agency management to the Regional Judicial Officer. Should you have any questions or concerns, please feel free to contact me at (215) 814-2066.

Sincerely,

Jennifer M. Abramson
Senior Assistant Regional Counsel

Enclosures

cc: Marie Owens, EPA

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

In the Matter of:)	
)	
ASMI LLC)	DOCKET NO.: RCRA-03-2014-0104
4801 Sadler Oaks Court)	
Glen Allen, VA 23060)	Proceeding Under Section 9006 of the
)	Resource Conservation and Recovery
Satyam Inc.)	Act, as amended, 42 U.S.C. Section
4801 Sadler Oaks Court)	6991e
Glen Allen, VA 23060)	
)	
RESPONDENTS,)	CONSENT AGREEMENT
)	
Chamberlayne Shell)	
2021 Chamberlayne Avenue)	
Richmond, VA 23222.)	
)	
FACILITY.)	
)	

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CONSENT AGREEMENT

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

This CA and the Final Order (collectively “CAFO”) resolve 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 Respondents in connection with underground storage tank systems at the Chamberlayne Shell facility located at 2021 Chamberlayne Avenue in Richmond, Virginia (“Facility”).

Effective October 28, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, the Commonwealth of Virginia was granted final authorization to administer a state UST management program (“Virginia 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 Virginia UST management program as finally authorized are enforceable

by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The Virginia UST management program regulations are set forth in the Virginia Administrative Code, Title 9, Agency 25, Chapter 580, Sections 10 *et seq.*, and will be cited hereinafter as 9 V.A.C. § 25-580-10 *et seq.*

Section 9006(d)(2)(B) of RCRA, 42 U.S.C. § 6991e(d)(2)(B), authorizes EPA to assess a civil penalty against any owner or operator of an underground storage tank who fails to comply with any requirement or standard of a State underground storage tank program that has been approved by EPA pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c.

GENERAL PROVISIONS

1. For purposes of this proceeding only, Respondents admit the jurisdictional allegations set forth in this CAFO.
2. Respondents neither admit nor deny the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 1, above.
3. Respondents agree not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached Final Order ("FO"), or the enforcement of the CAFO.
4. For the purposes of this proceeding only, Respondents expressly waive their rights to a hearing on any issue of law or fact set forth in this CA and any right to appeal the accompanying FO.
5. Respondents consent to the issuance of this CAFO and agree to comply with its terms and conditions.
6. Respondents shall bear their own costs and attorney fees.
7. The persons signing this CA on behalf of the Respondents certify to EPA by their signatures herein that Respondents, as of the date of this CA, are in compliance with the provisions of RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991m, and the Commonwealth of Virginia's federally authorized underground storage tank program set forth at 9 V.A.C. § 25-580-10 *et seq.* at the Facility referenced herein.
8. The provisions of this CAFO shall be binding upon Respondents and their successors and assigns.
9. This CAFO shall not relieve Respondents of their obligations 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 of any regulations promulgated or authorized 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 Respondents to EPA regarding matters at issue in the CAFO are false or, in any material respect, inaccurate. Respondents are aware that the submission of false or misleading information to the United States government may subject Respondents to separate civil and/or criminal liability.
11. Respondents agree not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.
12. EPA has given the Commonwealth of Virginia 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

13. EPA has jurisdiction over this matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, and 40 C.F.R. § 22.1(a)(4).
14. Respondents are each a “person” as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 9 V.A.C. § 25-580-10.
15. At all times relevant to this CAFO, ASMI LLC has and Satyam Inc. have been “operator” and “owner”, respectively, as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and 9 V.A.C. § 25-580-10, of “underground storage tank[s]” and “underground storage tank system[s]” as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and 9 V.A.C. § 25-580-10, at the Chamberlayne Shell facility located at 2021 Chamberlayne Avenue in Richmond, Virginia.
16. On December 18, 2012, EPA representatives conducted an inspection at the Facility pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
17. Pursuant to RCRA Section 9005, 42 U.S.C. § 6991d, EPA issued an Information Request Letter (“IRL”) to ASMI LLC on March 12, 2013 concerning the UST systems at the Facility.

COUNT I

FAILURE TO CONDUCT CATHODIC PROTECTION TESTING

18. Paragraphs 1 through 17 are incorporated by reference as if fully set forth herein.
19. At the times relevant to this CAFO, the underground storage tank systems at the Facility included five (5) ten thousand (10,000) gallon Steel Tank Institute Specification anode protected steel ("STI-P3") underground storage tanks, all installed on or about March 1986.
20. At all times relevant to this CAFO, the underground storage tank systems at the Facility stored "regulated substance[s]", as such term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 V.A.C. § 25-580-10, and were equipped with cathodic protection systems.
21. Pursuant to 9 V.A.C. § 25-580-90(2)(a), owners and operators of steel UST systems equipped with cathodic protection are required to test all cathodic protection systems within six (6) months of installation, and at least every three (3) years after that for as long as the UST systems are used to store regulated substances.
22. Based on EPA's December 18, 2012 inspection, Respondent ASMI LLC's response to EPA's March 12, 2013 IRL, and other relevant information, EPA has determined that Respondents failed to test the cathodic protection systems at the Facility at least every three (3) years from May 30, 2009 to January 3, 2013.
23. Respondents' acts and/or omissions as alleged in Paragraph 22, above, constitute a violation by Respondents of the requirements of 9 V.A.C. § 25-580-90(2)(a).

COUNT II

FAILURE TO DEMONSTRATE FINANCIAL RESPONSIBILITY

24. Paragraphs 1 through 23 are incorporated by reference as if fully set forth herein.
25. Pursuant to 9 V.A.C. § 25-590-40, owners or operators of underground storage tanks are required to demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground storage tanks.
26. Section 9 V.A.C. § 25-590-50 identifies the allowable mechanisms (or combination of mechanisms) that an owner or operator may utilize in order to demonstrate the financial responsibility in the required amounts, including a "Financial test of self-insurance" mechanism under 9 V.A.C. § 25-590-60.

27. At all times relevant to this CAFO, Respondents selected the “Financial test of self-insurance” under 9 V.A.C. § 25-590-60 as its method of demonstrating financial responsibility required by 9 V.A.C. § 25-590-40.
28. Based on EPA’s December 18, 2012 inspection, Respondent ASMI LLC’s response to EPA’s March 12, 2013 IRL, and other relevant information, EPA has determined that Respondents failed to meet the “Financial test of self-insurance” requirements under 9 V.A.C. § 25-590-60, and did not use any other permissible mechanism allowed under 9 V.A.C. § 25-590-50, from May 1, 2011 through May 13, 2013.
29. Respondents’ acts and/or omissions as alleged in Paragraph 28, above, constitute a violation by Respondents of the requirements of 9 V.A.C. § 25-590-40.

CIVIL PENALTY

30. In settlement of Complainant’s claims for civil penalties for the violations alleged in this CA, Respondents agree to pay a civil penalty in the amount of twenty four thousand one hundred dollars (\$24,100). The civil penalty amount is due and payable immediately upon Respondents’ receipt of true and correct copies of this CAFO. If Respondents pay the entire civil penalty of twenty four thousand one hundred dollars (\$24,100) within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to Respondents, no interest will be assessed against Respondents pursuant to 40 C.F.R. § 13.11(a)(1).
31. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.
32. In accordance with 40 C.F.R. § 13.11(a)(1), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondents. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a)(3).
33. Except those owed by State and local governments, the costs of the Agency’s administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA’s *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

34. Except those owed by State and local governments, a late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
35. 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 Respondents' violations and any good faith efforts by Respondents to comply with all applicable requirements as provided in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), and with EPA's Penalty Guidance for Violations of UST Regulations ("UST Guidance") dated November 4, 1990.
36. Respondents shall pay the amount described in Paragraph 30, above, by sending a certified or cashier's check payable to the "United States Treasury," as follows:

a. Mailing (*via first class U.S. Postal Service Mail*) a certified or cashier's check, made payable to the "United States Treasury" to the following address

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

Contact: Craig Steffen 513-487-2091
Molly Williams 513-487-2076

b. Via Overnight Delivery of a certified or cashier's check, made payable to the United States Treasury, sent to the following address:

U.S. Bank
Government Lockbox 979077
US EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

c. All payment made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

d. By electronic funds transfer (“EFT”) to the following account:

Federal Reserve Bank of New York
ABA 021030004
Account No. 68010727
SWIFT Address FRNYUS33
33 Liberty Street
NY, NY 10045
(Field tag 4200 of Fedwire message should read
“D 68010727 Environmental Protection Agency”)

e. By automatic clearinghouse (“ACH”) to the following account:

U.S. Treasury REX/Cashlink ACH Receiver
ABA 051036706
Account No. 310006
Environmental Protection Agency
CTX Format
Transaction Code 22 - checking

Contact: John Schmid
202-874-7026

f. Online payments can be made at WWW.PAY.GOV by entering “sfo 1.1” in the search field, and opening the form and completing the required fields.

g. Additional payment guidance is available at:

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

All payments shall also reference the above case caption and docket number, DOCKET NO.: RCRA-03-2014-0104. At the same time that any payment is made, Respondents shall mail copies of any corresponding check, or provide written notification confirming any electronic wire transfer, automated clearinghouse or online payment to Lydia A.

Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029 and to Marie Owens (3LC70), U.S. Environmental Protection Agency, Region III, Office of Land Enforcement, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.

FULL AND FINAL SATISFACTION

37. 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. Upon payment of the civil penalty referenced in Paragraph 30, above, EPA's claims for civil penalties for the violations alleged in Counts I and II of this CAFO shall be deemed fully and finally resolved and concluded.

RESERVATION OF RIGHTS

38. EPA reserves the right to commence action against any person, including Respondents, 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

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

AUTHORITY TO BIND THE PARTIES

40. The undersigned representatives of Respondents certify that they are fully authorized to enter into the terms and conditions of this Consent Agreement and bind Respondents hereto.

ENTIRE AGREEMENT

41. 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

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

For Respondents:

5/14/14
Date

ASMI LLC
By Ashwin Shah
Ashwin Shah, Member

5/14/14
Date

Satyam, Inc.
By Ashwin Shah
Ashwin Shah, Secretary
and Treasurer

For Complainant:

5/27/14
Date

Jennifer M. Abramson
Jennifer M. Abramson
U.S. EPA, Region III
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.

6.4.14
Date

John A. Armstead
John A. Armstead, Director,
Land and Chemicals Division
U.S. EPA, Region III

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

In the Matter of:

ASMI LLC
4801 Sadler Oaks Court
Glen Allen, VA 23060

Satyam Inc.
4801 Sadler Oaks Court
Glen Allen, VA 23060

RESPONDENTS,

Chamberlayne Shell
2021 Chamberlayne Avenue
Richmond, VA 23222.

FACILITY.

)
) Docket No.: RCRA-03-2014-0104
)
) Proceeding Under Section 9006 of the
) Resource Conservation and Recovery
) Act, as amended, 42 U.S.C. Section
) 6991e
)
) FINAL ORDER

FINAL ORDER

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondents, ASMI LLC and Satyam Inc., 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.

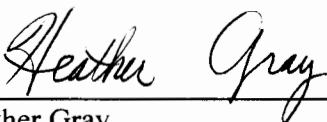
NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the *Consolidated Rules of Practice* and Section 9006(c) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991e(c) ("RCRA"), and having determined, based on the representations of the parties in the

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attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), **IT IS HEREBY ORDERED** that Respondents pay a civil penalty of twenty four thousand one hundred dollars (\$24,100) 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: 6-16-14



Heather Gray
Regional Judicial Officer
U.S. EPA, Region III

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

In the Matter of:)
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Richmond, VA 23222.)
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FACILITY.)

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CERTIFICATE OF SERVICE

I certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the above referenced matter was sent this day in the following manner to the below addressees.

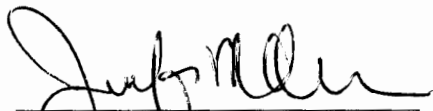
Original and one copy by hand-delivery: Lydia Guy, Regional Hearing Clerk

Copy by Certified Mail:

Channing J. Martin
Williams Mullen Center
200 South 10th Street
P.O. Box 1320 (23218-1320)
Richmond, Virginia 23219

JUN 16 2014

Date



Jennifer M. Abramson (3RC50)
Senior Assistant Regional Counsel
U.S. EPA, Region III

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