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**CERTIFICATE OF SERVICE**

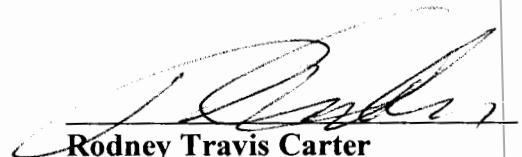
2013 NOV -8 PM 4: 15

**In the Matter of the U.S. AirForce, U.S. EPA Docket No. RCRA-03-12014-0016** REGIONAL HEARING CLERK  
EPA REGION III, PHILADELPHIA, PA

I caused, by over-night express mail, a copy of the Consent Agreement and Final Order for the above captioned matter to be transmitted to the addressee listed below. The original and one copy of this Consent Agreement and Final Order has been filed with the Regional Hearing Clerk for U.S. EPA Region III, on the date indicated below.

**Major James G. Gentry**  
Regional Environmental Counsel, AFLOA/JACE-ER  
60 Forsyth Street, SW, Suite 8M80  
Atlanta, GA 30303-4212

**November 8, 2013**  
DATE

  
**Rodney Travis Carter**  
Senior Assistant Regional Counsel  
EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III  
1650 Arch Street

Philadelphia, Pennsylvania 19103-2029

2013 NOV -8 PM 4: 15

Transmitted via Express Mail

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

November 8, 2013

Major James G. Gentry  
Regional Environmental Counsel, AFLOA/JACE-ER  
60 Forsyth Street, SW, Suite 8M80  
Atlanta, GA 30303-4212

**Re: JOINT BASE LANGLEY-EUSTIS MILITARY COMMUNITY, FIN 5023336**  
**Settlement of RCRA I Enforcement Matter**

Dear Major Gentry:

This letter is written regarding the settlement reached in the enforcement action by the United States Environmental Protection Agency, Region III, ("EPA") regarding facilities at the Joint Base Langley-Eustis Military Community ("JBLE") for violations certain requirements of Subtitle I of the Resource Conservation and Recovery Act ("RCRA") at 1407 Washington Boulevard and 2734 Washington Boulevard in Virginia (the "Facilities").

Enclosed please find the signed Consent Agreement and Final Order ("CA/FO") settling this matter. The CA/FO details the violation and the terms of the settlement and includes the settlement amount agreed upon and the method of payment. When the US Airforce has paid the penalty and satisfied any other conditions and/or terms of the CA/FO the matter will be considered closed. Thank you for your professionalism during this process. If you have any questions please contact me at (215) 814-2478.

Sincerely,

Rodney Carter  
Senior Regional Counsel  
Office of Regional Counsel (3RC30)

cc: M. Toiffel, Environmental Scientist  
Land & Chemical Division (3LC70)

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BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

2013 NOV -8 PM 4:15

1650 Arch Street  
Philadelphia, PA 19103-2029

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

IN THE MATTER OF: )

UNITED STATES AIR FORCE )

RESPONDENT )

Army and Air Force )  
Exchange Service Gas Station )  
1407 Washington Boulevard )  
Langley Virginia 23665-2800 )

Tactical Vehicle Refueling Point )  
2734 Washington Boulevard )  
Langley Virginia 23665-2800 )

FACILITIES )

RCRA-03-2014-0016

CONSENT AGREEMENT

Proceeding under Section 9006 and  
9007 of the **Resource Conservation  
and Recovery Act, as amended,**  
**42 U.S.C. § 6991e and § 6991f**

**CONSENT AGREEMENT**

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 United States Air Force ("Respondent"), 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 § 22.18(b)(2) and (b)(3).

This CA and the Final Order ("FO" and, collectively "CA/FO") resolve violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the Commonwealth of Virginia's federally authorized underground storage tank program with respect to the underground storage tanks ("USTs") at Respondent's facilities located at 1407 Washington Boulevard and 2734 Washington Boulevard in Langley, Virginia (the "Facilities").

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 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 Commonwealth of Virginia's authorized UST program regulations are set forth in the Virginia Administrative Code as Underground Storage Tanks: Technical Standards and Corrective Action Requirements ("VA UST Regulations"), 9 VAC § 25-580-10 et seq.

### **I. GENERAL PROVISIONS**

1. For purposes of this proceeding only, Respondent admits to the jurisdictional allegations set forth in this CA/FO.
2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CA/FO, except as provided in Paragraph 1, above.
3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA/FO, the issuance of the attached Final Order, or the enforcement of the CA/FO.
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/FO and any right to appeal the accompanying FO.
5. For the purposes of this proceeding only, Respondent hereby expressly waives its right to confer with the Administrator pursuant to RCRA Section 6001(b)(2), 42 U.S.C. §6961(b)(2).
6. Respondent consents to the issuance of this CA/FO and agrees to comply with its terms and conditions.
7. Respondent shall bear its own costs and attorney's fees.
8. The person signing this CA/FO, on behalf of the Respondent, certifies to EPA by his/or 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 VA UST Regulations at the two facilities referenced herein at Paragraph 17 below.
9. The provisions of this CA/FO shall be binding upon Respondent and its officers, directors, employees, successors and assigns.
10. This CA/FO 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 CA/FO constitute a waiver, suspension or modification of the requirements of RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991m, or any regulations promulgated thereunder.

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

## **II. FINDINGS OF FACT 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. The Respondent currently is, and at the time of the violations alleged in this CA/FO was, a Department of the executive branch of the United States federal government.
15. At all times relevant to this CA/FO, Respondent was a "person" within the meaning of that term as defined by Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 9 V.A.C. § 25-580-10.
16. At all times relevant to this CA/FO, Respondent has been the "operator" or "owner," 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 Respondent's two facilities defined in Paragraph 17 below.
17. At all times pertinent to the violations alleged in this CA/FO, the Respondent owned and/or operated the nine (9) underground storage tanks and underground storage tank systems. Six (6) of the USTs were located in the Army and Air force Exchange Service (AAFES) gas station at 1407 Washington Boulevard in Langley, Virginia, and Three (3) of the USTs were located in the Tactical Vehicle Refueling Point (TVRP) at 2734 Washington Boulevard in Langley, Virginia (collectively, the "Facilities"). The detailed characteristics and locations of the USTs at the two Facilities follows:

	<i>UST Number</i>	<i>Contents</i>	<i>Construction</i>	<i>Instillation M/Y</i>	<i>Capacity</i>	<i>Building</i>
1	R-1	Regular Gasoline	Lined Steel	1/1962	10,000 Gallons	1380 AAFES
2	R-2	Regular Gasoline	Lined Steel	1/1962	10,000 Gallons	1380 AAFES
3	P-3	Plus Gasoline	Lined Steel	1/1962	10,000 Gallons	1380 AAFES
4	P-4	Plus Gasoline	Lined Steel	1/1962	10,000 Gallons	1380 AAFES
5	2F-5	Super Gasoline	Lined Steel	1/1962	10,000 Gallons	1380 AAFES
6	2F-6	Super Gasoline	Lined Steel	1/1962	10,000 Gallons	1380 AAFES
7	2734-1	Jet Fuel	Doubled Wall Fiber glass Reenforced Plastic (DW FRP)	12/1997	15,000 Gallons	TVRP 2734
8	2734-2	Regular Gasoline	DW FRP	12/1997	6,000 Gallons	TVRP 2734
9	2734-3	Diesel Fuel	DW FRP	12/1997	6,000 Gallons	TVRP 2734

18. On August 1, 2012, a representative of EPA, Region 3, Land and Chemicals Division, Office of Land Enforcement conducted a Compliance Evaluation Inspection ("CEI") of Respondent's nine (9) USTs at the two Facilities to determine compliance with Subtitle I of RCRA pursuant to Section 9005 of RCRA, 42 U.S.C. § 6991d.
19. At all times relevant to the applicable violations alleged herein, Respondent's nine (9) "petroleum UST system(s)" with connected underground piping routinely contained "regulated substance(s)," as those terms are defined in Section 9001(7) of RCRA, 42 U.S.C. §6991(7), and 9 V.A.C. § 25-580-10, and were located at the two Facilities.

**Counts 1 and 2**  
**Failure to Conduct Line Leak Detector Testing**

20. Paragraphs 1 through 19 are incorporated by reference as if fully set forth herein.
21. At all times relevant to the applicable violations alleged herein, the piping associated with each of the petroleum UST systems described above, was equipped with automatic line leak detectors.
22. Pursuant to 9 V.A.C. § 25-580-170(1), an annual test of the operation of the automatic line leak detector and pressurized piping associated with the line leak detectors must be conducted in accordance with the manufacturer's requirements.
23. Respondent failed to conduct required annual operational testing of automatic line leak detectors and pressurized piping associated with the nine (9) petroleum UST systems at the Respondent's two Facilities.
24. Respondent failed to conduct required annual operational testing of automatic line leak detectors and pressurized piping associated with the six (6) petroleum UST systems at building 1380 AAFES from June 6, 2011, through September 4, 2012.
25. Respondent failed to conduct required annual operational testing of automatic line leak detectors and pressurized piping associated with the three (3) petroleum UST systems at the building TVRP 2734 from June 6, 2011, through September 4, 2012.
26. Respondent's acts and/or omissions as alleged in Paragraphs 23 through 25, above, constitute two separate violations by Respondent of 9 V.A.C. § 25-580-170(1) at its two Facilities.

**III. CIVIL PENALTY**

27. Section 9006(d) of RCRA, 42 U.S.C. §6991e(d), and 40 C.F.R. Part 19, provide that EPA may assess a civil penalty of up to \$16,000.00 per day for each tank each day such tank is in violation of the regulatory requirements.
28. 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 twelve thousand, seven hundred and nine dollars (**\$12,709.00**). The civil penalty amount is due and payable immediately upon Respondent's receipt of a true and correct copy of this CA/FO. Respondent must pay the entire civil penalty within thirty (30) calendar days of the date on which this CA/FO is mailed or hand-delivered to Respondent.
29. 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), 42 U.S.C. § 6991e(c), and with EPA's Penalty Guidance for Violations of UST Regulations ("UST Guidance") dated November 4, 1990.

30. Respondent shall remit the civil penalty and/or interest in accordance with Paragraph 28 above, by sending a certified check or cashier's check, or electronic wire transfer, payable to "**United States Treasury**," in accordance with this Section III and the following instructions:

a. All payments made by check and sent by U.S. Postal Service regular mail shall be addressed to:

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

*The customer service contact for this address is Heather Russell, who may be reached at 513-487-2044.*

b. All payments made by check and sent by UPS, FedEx, or overnight mail delivery service (except as noted in section d, below) shall be addressed 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 U.S. Bank customer service contact for overnight delivery is 314-418-1028.*

c. All payments made by check in any currency drawn on banks with no branches in the United States shall be addressed for delivery to the following address:

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

d. All payments made by electronic funds transfer ("EFT") shall be directed to:



Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 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"

*The Federal Reserve customer service contact may be reached at 212-720-5000.*

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

US Treasury REX / Cashlink ACH Receiver  
ABA = 051036706  
Account No.: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:

5700 Rivertech Court  
Riverdale, MD 20737

*Customer service contact: John Schmid, at 202-874-7026, or REX at 1-866-234-5681*

- f. On-line payment option

[WWW.PAY.GOV](http://WWW.PAY.GOV)

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

- g. Additional payment guidance is available at:  
[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

- h. All payments by Respondent shall include Respondent's full name and address and the EPA Docket Number of this Federal Facility Consent Agreement (RCRA-3-2014-0016).

- I. At the time of payment, Respondent shall send a notice of such payment, including a copy of the check, EFT authorization or ACH authorization, as appropriate to:

Lydia Guy  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC00)  
1650 Arch Street  
Philadelphia, PA 19103-2029  
and  
Rodney Carter  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III (Mail Code 3RC50)  
1650 Arch Street  
Philadelphia, PA 19103-2029

31. Nothing in this CA/FO shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any other provision of law.
32. In accordance with 40 C.F.R. § 13.3, any debt owed to the EPA as a result of Respondent's failure to timely pay in accordance with Paragraph 28 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).

#### **IV. CERTIFICATION OF COMPLIANCE**

33. The individual signing this CA/FO on behalf of the Respondent certifies to EPA by his or her signature herein that Respondent, as of the date of its execution of this CA/FO, is in compliance with the provisions of RCRA, Subtitle C, 42 U.S.C. §§ 6901 et seq., and the Commonwealth of Virginia's federally authorized hazardous waste program set forth at 9 VAC § 20-60-260 et seq. and/or of RCRA, Subtitle I, 42 U.S.C. §§ 6991 et seq., and the Commonwealth of Virginia's federally authorized UST program at the Facilities referenced herein. This certification is based on the personal knowledge of the signer or an inquiry of the person or persons responsible for the Facilities' compliance with Subtitles C and/or I of RCRA.

#### **V. RESERVATION OF RIGHTS**

34. This CA/FO resolves only EPA's claims for civil penalties for the specific violations alleged in the CA/FO. 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 CA/FO, following its filing with the Regional Hearing Clerk.

#### **VI. FULL AND FINAL SATISFACTION**

35. This CA/FO shall constitute full and final satisfaction of Complainant's claims for civil penalties for the specific violations set forth in the CA/FO. Compliance with this CA/FO shall not be a defense to any action commenced at any time for any other violations of the federal laws and regulations administered by EPA.

#### **VII. OTHER APPLICABLE LAWS**

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

#### **VIII. AUTHORITY TO BIND PARTIES**

37. The undersigned certifies that he or she is fully authorized to enter into the terms and conditions of this CA/FO and to legally bind Respondent hereto.

#### **IX. PARTIES BOUND**

38. This CA/FO shall apply to and be binding upon EPA, Respondent, and Respondent's officers, employees, agents, successors and assigns.

#### **X. EFFECTIVE DATE**

39. This CA/FO shall become effective upon filing with the Regional Hearing Clerk.

#### **XI. ENTIRE AGREEMENT**

40. This CA/FO constitutes the entire agreement and understanding of the parties concerning settlement of all claims pertaining to the 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 CA/FO.

**For Respondent**

18 September 2013

Date



John J. Allen, Jr., Colonel,  
Commander, 633d Air Base Wing  
US Air Force

**For Complainant**

September 24, 2013

Date



Rodney T. Carter  
Senior Assistant Regional Counsel

After reviewing the Findings of Fact and Conclusions of Law and other pertinent matters, the Director of Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, hereby recommends that the Regional Administrator or his designee, the Regional Judicial Officer, issue the attached Final Order.

10.31.13

Date



John A. Armstead, Director  
Land and Chemicals Division (3LC00)

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

1650 Arch Street  
Philadelphia, PA 19103-2029

IN THE MATTER OF: )

UNITED STATES AIR FORCE )

RESPONDENT )

Army and Air Force )  
Exchange Service Gas Station )  
1407 Washington Boulevard )  
Langley Virginia 23665-2800 )

Tactical Vehicle Refueling Point )  
2734 Washington Boulevard )  
Langley Virginia 23665-2800 )

FACILITIES )

RCRA-03-2014-0016

FINAL ORDER

Proceeding under Section 9006 and  
9007 of the **Resource Conservation  
and Recovery Act, as amended,**  
**42 U.S.C. § 6991e and § 6991f**

**FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division U.S. Environmental Protection Agency - Region III and the United States Air Force (USAF or "Respondent"), 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 ("RCRA"), 42 U.S.C. § 6991e and § 6991f, 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 (d) of RCRA, 42 U.S.C. §6991e(c) and (d), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of twelve thousand, seven hundred and nine dollars (**\$12,709.00**) in accordance with the payment provisions set forth in the attached Consent Agreement and comply with the 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: 11/7/13



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