



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

LR-8J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Barb Bonansinga
Illinois Department of Central Management Service
200 E. Ash Street
Springfield, Illinois 62704

Re: Consent Agreement and Final Order
Illinois Department of Central Management Service
Docket No: **RCRA-05-2008-0013**

Dear Ms. Bonansinga:

Enclosed please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed on Sept 8, 2008 with the Regional Hearing Clerk (RHC).

Please pay the civil penalty in the amount of \$20,408.65 in the manner prescribed in paragraphs 29 through 34 of the CAFO, and reference all checks with the number **BD2750842R011** and docket number **RCRA-05-2008-0013**. Your payment is due within 30 calendar days of the effective date of the CAFO.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Willie H. Harris".

Willie H. Harris, P.E.
Chief, RCRA Branch
Land and Chemicals Division

Enclosure

cc: Shelly Bradley, OSFM (w/CAFO)

bcc:

Sonja Brooks-Woodard, RHC, E-13J (w/CAFO)

Jeffery Treviño, ORC (C-14J)(w/CAFO)

UST Enforcement File LR-8J (w/CAFO)

Karen Thompson, PI-19J (w/CAFO)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

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US ENVIRONMENTAL PROTECTION AGENCY REGION 5

2008 SEP -8 AM 11: 43

In the Matter of:)
) Docket No. RCRA-05-2008-0013
Illinois Department of Central)
Management Service, Springfield, Illinois,)
) Proceeding to Assess a Civil Penalty Under
) Section 9006 of the Solid Waste Disposal
Respondent.) Act, as amended, 42 U.S.C. § 6991e.
)
)
)

CONSENT AGREEMENT AND FINAL ORDER

CONSENT AGREEMENT

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 9006 of the Solid Waste Disposal Act, as amended (SWDA), 42 U.S.C. § 6991e, and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is by lawful delegation, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is the Illinois Department of Central Management Service, Springfield, Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interests and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Subchapter IX of SWDA, 42 U.S.C. § 6991 *et seq.*, regulates the installation and use of underground storage tanks (USTs), which are defined in Section 9001(1) of SWDA, 42 U.S.C. § 6991(1), and 40 C.F.R. § 280.12.

10. Section 9003 of SWDA, 42 U.S.C. § 6991b, requires the Administrator to promulgate release detection, prevention and correction regulations applicable to all owners and operators of USTs. These regulations are codified in 40 C.F.R. Part 280.

11. 40 C.F.R. § 280.41 (b)(1) requires that underground piping that conveys regulated substances under pressure must: (i) be equipped with an automatic line leak detector conducted in accordance with § 280.44(a); and ii) have an annual line tightness test conducted in accordance with 280.44(b) or have monthly monitoring conducted in accordance with 40 C.F.R. § 280.44(c)

12. 40 C.F.R. § 280.44 (a) states that an automatic line leak detector is a method which alerts the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour. An

annual test of the operation of the leak detector must be conducted in accordance with the manufacturer's requirements.

13. 40 C.F.R. § 280.40(a) requires owners and operators of new and existing UST systems to provide a method, or combination of methods, of release detection that meets the performance requirements in 40 C.F.R. § 280.43 or § 280.44, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods used after the date shown in the following table corresponding with the specified method except for methods permanently installed prior to that date, must be capable of detecting the leak rate or quantity specified for that method in the corresponding section of the rule (also shown in the table) with a probability of detection (Pd) of 0.95 and a probability of false alarm (Pfa) of 0.05.

14. Any violation of regulations promulgated pursuant to Subtitle IX (Sections 9001 through 9010 of SWDA, 42 U.S.C. §§ 6991 through 6991i) or of any state provision approved under SWDA Section 9004, constitutes a violation of SWDA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 9006 of SWDA, 42 U.S.C. § 6991e.

15. Section 9006 of SWDA, 42 U.S.C. § 6991e, authorizes U.S. EPA to initiate an enforcement action against any person found to be in violation of any requirement of SWDA Subchapter IX, including state programs approved under Section 9004 of SDWA, 42 U.S.C. § 6991c.

16. Section 9006 of SWDA, 42 U.S.C. § 6991e, authorizes U.S. EPA to assess a civil penalty of up to \$10,000 for each tank for each day of violation of any requirement or standard of a State program approved under Section 9004 of SWDA, 42 U.S.C. § 6991c. The Debt

Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty to \$11,000 per tank per day of violation that occurred after March 15, 2004.

Factual Allegations

17. Respondent is an Illinois State Government Agency.
18. Therefore, Respondent is a "person," as defined at 40 C.F.R. § 280.12.
19. Respondent is the owner or operator of facilities at Route 133 West, Paris, Illinois, 61944, ("the Paris Facility"), which include petroleum underground storage tanks ("USTs").
20. Specifically, Respondent's Paris Facility includes two (2) tanks: one 10,000-gallon underground tank for holding Gasoline and one 10,000-gallon underground tanks for holding Diesel.
21. Respondent's two (2) underground tanks are "underground storage tanks," as defined at 40 C.F.R. § 280.12.
22. Therefore, Respondent is the "owner and/or operator" of petroleum underground storage tanks (USTs) as defined at 40 C.F.R. § 280.12.
23. Therefore, Respondent is subject to regulation under the SWDA.
24. On January 28, 2008, U.S. EPA completed at Respondent's Paris Facility a SDWA Compliance Inspection.
25. On January 28, 2008, the two (2) UST systems at Respondent's Paris Facility had pressurized piping
26. However, neither of the two (2) UST systems at Respondent's Paris Facility had an adequate automatic line leak detection method for their pressurized piping systems, or documentation demonstrating they were capable of meeting the U.S. EPA Performance

Standards, in violation of 40 C.F.R. § 280.40(a)(1) and Section 9003 of SWDA, 42 U.S.C. § 6991b. Specifically, Respondent was unable to show that the sump sensors and interstitial monitoring could detect a release at “3 gallons per hours at 10 pounds per square inch line pressure within one hour.” 40 C.F.R. § 280.44(a).

27. On January 28, 2008, Respondent’s Paris Facility did not have records of any annual tests of operation for its two (2) pressurized piping systems, in violation of 40 C.F.R. § 280.34(b) and (c) and Section 9003 of SWDA, 42 U.S.C. § 6991b.

28. On May 12, 2008, Respondent installed mechanical line leak detectors (“MLLDs”) on the two (2) UST systems at the Paris Facility. The MLLDs are designed to detect a release at 3 gallons per hour at 10 pounds per square inch within one hour. Documentation pertaining to the installation of the line leak detectors, as well as the test results, have been submitted to U.S. EPA for review.

Civil Penalty

29. In consideration of the extent and gravity of the violations, Respondent’s cooperation, and other unique factors, U.S. EPA has determined that an appropriate civil penalty to settle this action is \$20,408.65.

30. Within 30 days after the effective date of this CAFO, Respondent must pay the civil penalty for the alleged violations. Respondent must pay the penalty by sending a check issued by the State of Illinois, payable to the “Treasurer, United States of America,” to:

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

The check must note the following: the Case Name (In the Matter of: Illinois Department of Central Management Service), the Docket No. of this CAFO, and the Billing Document No.

_____.

31. For payment by check, a transmittal letter, stating Respondent's Name, the Case Name, Respondent's Complete Address, the Case Docket No., and the Billing Document No. must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk, (E-13J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Arturo Cisneros, (LR-8J)
RCRA Program Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Jeffery M. Trevino, (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

32. This civil penalty is not deductible for federal tax purposes.

33. If Respondent fails to pay the proposed civil penalty timely, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

34. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the

payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15.00 handling charge each month that any portion of the penalty is more than thirty (30) days past due. In addition, U.S. EPA will assess a six percent (6%) per year penalty on any principal amount ninety (90) days past due.

General Provisions

35. This CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts alleged in this CAFO.

36. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

37. Respondent certifies that it is complying with Section 9003 of SWDA, 42 U.S.C. § 6991b.

38. This CAFO does not affect Respondent's responsibility to comply with SWDA and other applicable federal, state and local laws, and regulations.

39. The terms of this CAFO bind Respondent and its successors, and assigns.

40. Each person signing this CAFO certifies that he or she has the authority to sign this CAFO for the party whom he or she represents and to bind that party to its terms.

41. Each party agrees to bear its own costs and fees, including attorneys' fees, in this action.

42. This CAFO constitutes the entire agreement between the parties.

Respondent

Illinois Department of Central Management Service, Springfield, Illinois

Letitia Dominici

Letitia Dominici,
Senior Deputy General Counsel

8-11-08

Date

Complainant

Region 5, U.S. Environmental Protection Agency

Allen Zwick

for Margaret M. Guerriero
Director
Land and Chemicals Division

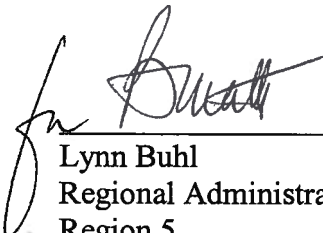
8/29/08

Date

**In the Matter of: Illinois Department of Central Management Services, Springfield, Illinois
Docket No. RCRA-05-2008-0013
Consent Agreement and Final Order**

FINAL ORDER

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.



Lynn Buhl
Regional Administrator
Region 5
U.S. Environmental Protection Agency
Chicago, Illinois

9-2-08

Date

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US EPA REGION V
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**In the Matter of: Illinois Department of Central Management Services, Springfield, Illinois
Docket No. RCRA-05-2008-0013
Consent Agreement and Final Order**

Certificate of Service

I, Gaye Cuenington certify that I hand delivered the original of the Consent Agreement and Final Order, docket number RCRA-05-2008-0013 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, personally served a copy on the Regional Judicial Officer, and mailed a correct copy by first-class, postage prepaid, certified mail, return receipt requested, to Illinois Department of Central Management Service by placing it in the custody of the United States Postal Service addressed as follows:

Barb Bonansinga
Illinois Department of Central Management Service
200 E. Ash Street
Springfield, IL 62704

Return Receipt # 7001 0320 0006 1458 6814

RECEIVED
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US EPA REGION V
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Dated: September 8, 2008

Gaye Cuenington

201 Katrina Jones, Administrative Program Assistant
RCRA Branch
United States Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, IL 60604-3590
(312) 353-5882