

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

RECEIVED  
EPA REGION 4

2007 AUG -7 PM 4: 35

HEARING CLERK

<b>IN THE MATTER OF:</b>	)	
	)	
Naval Air Station	)	<b>Docket No. CAA-04-2007-1512(6)</b>
Pensacola, FL	)	
	)	
	)	
<b>Respondent.</b>	)	
	)	

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action/Jurisdictional Statements

1. This is a civil penalty proceeding pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is the Naval Air Station located in Pensacola, Florida (hereinafter, "Respondent").

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

3. The authority to take action under Section 113(d) of CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under the CAA to the Regional Administrators by EPA Delegation 7-6-A. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides, and Toxics Management Division, by EPA Region 4 Delegation 7-6-A. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

4. Respondent is a branch of the Federal government located in Pensacola, Florida.

5. Respondent is a "person" as defined in CAA § 302(e), 42 U.S.C. § 7602(e).

6. Respondent was issued their original title V (TV) permit, permit #0330082-003-AV, on January 26, 1999, by the Florida Department of Environmental Protection. Respondent currently operates under their first TV renewal, permit #0330082-005-AV, which was issued on March 5, 2004, and construction permit #0330082-007-AV, which was issued on February 10, 2005.

7. TV permit #0330082-005-AV, condition C.6 states that Respondent shall maintain a record of fuel consumption showing monthly usage or approximate fuel consumption based on hours of operation.

8. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19, EPA may assess a penalty of not more than \$32,500 for each violation of the CAA, 42 U.S.C. § 7671h, that occurred after March 15, 2004.

## II. Factual Allegations

9. EPA alleges that Respondent used its calendar year 2003 fuel consumption records to estimate their calendar year 2005 fuel consumption records for emission unit #27. Thus, Respondent estimated fuel consumption using a method that TV permit #0330082-005-AV does not allow.

## III. Consent Agreement

10. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out in Paragraphs 1 through 8 above, but Respondent neither admits nor denies the factual allegations set out in paragraph 9 above.

11. As provided in 40 C.F.R. § 22.18(b)(2), Respondent waives any right to contest the allegations listed above and its right to appeal the proposed final order accompanying this consent agreement.

12. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

13. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of the CAA.

14. Compliance with this CAFO shall resolve the alleged violations contained herein, and EPA hereby releases Respondent from all liability for the violations alleged herein. This CAFO shall not otherwise affect any liability of Respondent, if any, to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement for allegations of violations not contained in this CAFO.

15. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CAA.

#### IV. Final Order

16. Respondent shall pay a civil penalty of **NINE THOUSAND AND TWENTY SEVEN DOLLARS (\$9,027)** which is to be paid within thirty (30) days after the date Respondent receives a copy of the fully executed CAFO.

17. Respondent shall pay the penalty identified in Paragraph 16 utilizing a manual Military Interdepartmental Purchase Request (MIPR), DD-Form 448, an intergovernmental electronic payment procedure, which Respondent is requested to attach to this document during review and signature and mail to:

Ms. Laurie Savoy  
Air, Pesticides and Toxics Management Division  
Air and EPCRA Enforcement Branch  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303

Upon receipt, EPA will sign the MIPR and a signed copy of the MIPR will be attached to the ratified CAFO. Upon Respondent's receipt of the ratified CAFO and signed MIPR, please mail or fax a copy of the MIPR for processing to:

Molly Williams  
26 West Martin Luther King Drive  
Mail Stop 002  
Cincinnati, Ohio  
Fax Number: (513) 487-2063  
Telephone Number: (513) 487-2076

18. Upon acceptance and then billing of the MIPR by EPA to the address provided in block 13 of the MIPR through the Intra-Government Payment and Collection (IPAC) system, the payment will be remitted to EPA. Respondent shall use EPA Cincinnati's accounting location code 68-01-0727. The MIPR shall reference the name and the Docket Number of the CAFO.

19. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for the civil penalty payment made pursuant to paragraph 21.

20. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a

delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge of up to six percent per year compounded annually may be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

21. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

22. This CAFO shall be binding upon the Respondent, its successors and assigns.

23. The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Ms. Laurie Savoy  
Air, Pesticides and Toxics Management Division  
Air and EPCRA Enforcement Branch  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303  
(404) 562-9201

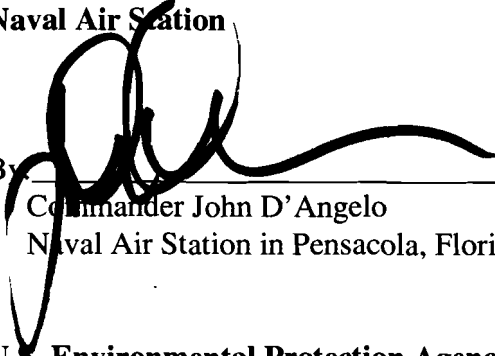
24. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

V. Effective Date

25. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

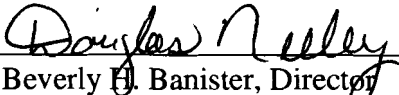
Naval Air Station

By: 

Date: 10 June 07

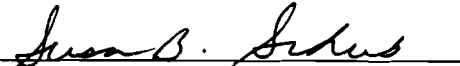
Commander John D'Angelo  
Naval Air Station in Pensacola, Florida

**U.S. Environmental Protection Agency**

By:   
Beverly H. Banister, Director  
Air, Pesticides and Toxics Management Division,  
Region 4

Date: June 26, 2007

**APPROVED AND SO ORDERED** this 7<sup>th</sup> day of August, 2007.

  
Susan B. Schub  
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Naval Air Station in Pensacola, Florida, Docket No. CAA-04-2007-1512(b), on the parties listed below in the manner indicated:

Commander John D'Angelo  
310 John Towers Rd.  
Pensacola, FL 32508

(Via Federal Express)

Ms. Nadine Orrell  
Associate Regional Counsel  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, GA 30303

(Via EPA internal mail)

Ms. Laurie Savoy  
Air, Pesticides and Toxics Management Division  
Air and EPCRA Enforcement Branch  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303

(Via EPA internal mail)

Date:

8-7-06



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental Protection  
Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404)562-9511

MILITARY INTERDEPARTMENTAL PURCHASE REQUEST

1. Page 1 of 1 Pages

2. FSC

3. CONTROL SYMBOL NO.

4. DATE PREPARED  
07/10/2007

5. MIPR NUMBER  
N0020407MPEA001

7. AMEND NO  
Basic

7. TO:  
ENVIRONMENTAL PROTECTION AGENCY  
26 WEST MARTIN LUTHER KING DRIVE  
ATTN: MOLLY WILLIAMS, MAIL STOP 0002  
CINCINNATI, OH 45268-0001

8. FROM:  
COMMANDER NAVY REGION SE  
FINANCIAL MANAGEMENT DEPT  
CODE N02F134 BOX 102, NAS  
JACKSONVILLE, FL 32212-0102

9. ITEMS ARE ARE NOT INCLUDED IN THE INTERSERVICE SUPPLY SUPPORT PROGRAM AND REQUIRED INTERSERVICE SCREENING X HAS HAS NOT BEEN ACCOMPLISHED.

ITEM NO.	DESCRIPTION <i>(Federal stock number, nomenclature, specifications, and/or drawing No., etc.)</i>	QTY	UNIT	ESTIMATED UNIT PRICE	ESTIMATED TOTAL PRICE
1	CIVIL PENALY DOCKET NUMBER: CAA-04-2007-1512 (b)  CC: EA SCC:E3 SIC:EC CAC:927A PGID:6287	1			\$9,027.00

10. SEE ATTACHED PAGES FOR DELIVERY SCHEDULES, PRESERVATION AND PACKAGING INSTRUCTIONS, SHIPPING INSTRUCTIONS AND INSTRUCTIONS FOR DISTRIBUTION OF CONTRACTS AND RELATED DOCUMENTS.

11. GRAND TOTAL  
\$9,027.00

12. TRANSPORTATION ALLOTMENT (Used if FOB Contractor's plant)

13. MAIL INVOICES TO (Payment will be made by)  
DFAS CLEVELAND, NORFOLK ACCTS PAYABLE  
P.O. BOX 998022, CLEVELAND OH, 44199

14. FUNDS FOR PROCUREMENT ARE PROPERLY CHARGEABLE TO THE ALLOTMENTS SET FORTH BELOW. THE AVAILABLE BALANCES OF WHICH ARE SUFFICIENT TO COVER THE ESTIMATED TOTAL PRICE.

ACRN	APPROPRIATION	LIMIT/ SUBHEAD	SUPPLEMENTAL ACCOUNTING CLASSIFICATION	ACCTG STA DODAAD	AMOUNT
AA	1771804	52FA	253 00052 0 068732 2D PEA001	002047EA911Q	\$9,027.00

15. AUTHORIZING OFFICER (Type name and title)  
ANABEL SANTIAGO, Supvr Budget Analyst

16. SIGNATURE  


17. DATE  
10 JUN 2007

FORM DD 448

PREVIOUS EDITION IS OBSOLETE

1 JUN 72

**ACCEPTANCE OF MIPR**

<b>1. To: (Requiring Activity Address) (Include ZIP Code)</b>  COMMANDER NAVY REGION SE FINANCIAL MANAGEMENT DEPT CODE N02F134 BOX 102, NAS JACKSONVILLE, FL 32212-0102	<b>2. MIPR NUMBER</b>  N0020407MPEA001	<b>3. AMENDMENT NO.</b>  BASIC
<b>4. DATE (MIPR Signed)</b>		<b>5. AMOUNT ( As Listed on This MIPR)</b>

**6. The MIPR identified above is accepted and the items will be provided as follows ( Check as Applicable)**

a.  **ALL ITEMS WILL BE PROVIDED THROUGH REIMBURSEMENT (Category I)**

b.  **ALL ITEMS WILL BE PROCURED BY THE DIRECT CITATION OF FUNDS (Category II)**

c.  **ITEMS WILL BE PROVIDED BY BOTH CATEGORY I AND II AS INDICATED BELOW**

d.  **THIS ACCEPTANCE, FOR CATEGORY I ITEMS, IS QUALIFIED BECAUSE OF ANTICIPATED CONTINGENCIES AS TO FINAL PRICE. CHANGES IN THIS ACCEPTANCE FIGURE WILL BE FURNISHED PERIODICALLY UPON DETERMINATION OF DEFINITIZED PRICES, BUT PRIOR TO SUBMISSION OF BILLINGS.**

**7. MIPR ITEM NUMBER(S) IDENTIFIED IN BLOCK 13, "REMARKS" IS NOT ACCEPTED (IS REJECTED) FOR THE REASONS INDICATED.**

8. TO BE PROVIDED THROUGH REIMBURSEMENT CATEGORY I			9. TO BE PROCURED BY DIRECT CITATION OF FUNDS CATEGORY II		
ITEM NO. a	QUANTITY b	ESTIMATED PRICE c	ITEM NO a	QUANTITY b	ESTIMATED PRICE c
		\$9,027.00			
<b>d. TOTAL ESTIMATED PRICE</b> \$9,027.00			<b>d. TOTAL ESTIMATED PRICE</b>		

<b>10. ANTICIPATED DATE OF OBLIGATION FOR CATEGORY II ITEMS</b>	<b>11. GRAND TOTAL ESTIMATED PRICE OF ALL ITEMS</b> \$9,027.00
---	---

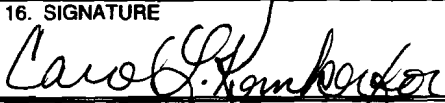
**12. FUNDS DATA (Check if Applicable)**

a.  **ADDITIONAL FUNDS IN THE AMOUNT OF \$ \_\_\_\_\_ IS REQUIRED (See Justification in Block 13)**

b.  **FUNDS IN THE AMOUNT OF \$ \_\_\_\_\_ ARE NOT REQUIRED AND MAY BE WITHDRAWN**

**13. REMARKS**

ENVIRONMENTAL PROTECTION AGENCY 26 WEST MARTIN LUTHER KING DRIVE ATTN: MOLLY WILLIAMS, MAIL STOP 0002 CINCINNATI, OH 45268-0001	<b>15. TYPED NAME AND TITLE OF AUTHORIZED OFFICIAL</b>  Beverly H. Banister, Director Air, Pesticide & Toxics Mgmt. Division Region 4
<b>16. SIGNATURE</b> 	
<b>17. DATE</b> 7/23/07	



**EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE COMPLETED BY THE ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 8/2/07  
(Name) (Date)

in the OEA at (404) 562-9574  
(Office) (Telephone Number)

- |  |  |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree<br>USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement<br>FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree<br>DOJ COLLECTS      | <input type="checkbox"/> Oversight Billing - Cost Package required:<br>Sent with bill              |
| <input type="checkbox"/> Other Receivable                                      | <input type="checkbox"/> Not sent with bill  |
| <input type="checkbox"/> This is an original debt                              | <input type="checkbox"/> Oversight Billing - Cost Package not required                             |
|  | <input type="checkbox"/> This is a modification  |

PAYEE: Naval Air Station - Pensacola FL  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 9027  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA 04 2007 1512(b)

The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Office: 7001 1140 0001 1021 2616

**TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_  
If you have any questions, please call: \_\_\_\_\_ of the Financial Management Office

**DISTRIBUTION:**

- A. JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the order should be mailed to:
- |  |   |
|--|---|
| 1. Debt Tracking Officer<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office<br>3. Designated Program Office |
|--|---|

- B. ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the order should be mailed to:
- |  |   |
|--|---|
| 1. Originating Office<br>2. Regional Hearing Clerk | 3. Designated Program Office<br>4. Regional Counsel (EAD) |
|--|---|

PS Form 3800, January 2001  
See Reverse for Instructions

City, State, ZIP+4<sup>®</sup>  
Pensacola, FL 32508

Street, Apt. No., or PO Box No.  
315 Stoddard Rd.

Sent To  
Commander John Dwyer

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark Here

**OFFICIAL USE**

U.S. Postal Service  
CERTIFIED MAIL RECEIPT  
(Domestic Mail Only) No Insurance Coverage Provided