



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 24 2016

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Colonel Andrew C. Hilmes
Garrison Commander
Headquarters, United States Army Garrison
1 Karker Street
Fort Benning, Georgia 31905-5000

Re: Fort Benning
Consent Agreement and Final Order
Docket Number: RCRA-04-2015-4012(b)

Dear Colonel Hilmes:

Enclosed is a copy of the fully executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above referenced matter. The CA/FO was effective upon filing. As a reminder, please make payment of the \$49,900.00 civil penalty, which is due within thirty (30) calendar days of the effective date of the CA/FO. A copy of the check, wire transfer or online payment should be submitted to the following people:

Patricia Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

and to:

Larry L. Lamberth, Chief
Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

If you have any questions, please feel free to contact Randy Jackson, of my staff, at (404) 562-8464. Legal questions should be directed to Gregory Luetscher at (404) 562-9677.

Sincerely,

A handwritten signature in blue ink, appearing to read "William Truman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

William Truman, Acting Chief
Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2015-4012(b)
)	
Fort Benning)	Proceeding Under Section 3008(a) of the
6751 Constitution Loop, Suite 550)	Resource Conservation and Recovery Act,
Fort Benning, Georgia 31905-5000)	42 U.S.C. § 6928(a)
)	
EPA ID No.: GA3210020084)	
)	
Respondent)	

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Section 6001 of RCRA, 42 U.S.C. § 6961 ordering compliance with the requirements of the Georgia Hazardous Waste Management Act (GHWMA), Ga. Code Ann. §§ 12-8-60 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939f], and the regulations promulgated pursuant thereto and set forth at Georgia Hazardous Waste Management Regulations (GHWMR) Ga. Comp. R. and Regs. 391-3-11-.01 to 391-3-11-.18 [Title 40 of the Code of Federal Regulations (C.F.R.), parts 260 through 279]. This action seeks the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Section 12-8-66 of GHWMA, Ga. Code Ann. §12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] and Ga. Comp. R. and Regs. 391-3-11-.01 to 391-3-11-.18, 391-3-11-.18, and 391-3-11-.17(1) [40 C.F.R. Parts 260 through 270, 273, and 279].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

USEPA REGION 4
OFFICE OF REGIONAL
COUNSEL
2016 MAR 24 AM 8:30
HEARING CLEARANCE

II. THE PARTIES

4. Complainant is the Chief, Enforcement and Compliance Branch, Resource Conservation and Restoration Division, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.
5. Respondent is the Garrison Commander, Fort Benning. Respondent is the owner and/or the operator of Fort Benning, a department, agency, or instrumentality of the United States Department of Defense, located at 6751 Constitution Loop Road, Suite 550, Fort Benning, Georgia (the Facility).

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Georgia (the State) has received final authorization from the EPA to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the Georgia authorized program are found at Ga. Code Ann. § 12-8-60 *et seq.* and in Ga. Comp. R. and Regs. 391-11-.01 *et seq.*
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. Georgia has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CA/FO.
11. Section 12-8-64(1)(A) of the GHWMA, Ga. Code Ann. § 12-8-64(1)(A) [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. Part 262].

12. Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005(a) of RCRA, 42 U.S.C. § 6925(a)], sets forth the requirement that facilities that treat, store, or dispose of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Ga. Comp. R. and Regs. 391-3-11-.10(2) and 391-3-11-.10(1), respectively [40 C.F.R. Parts 264 (permitted) 265 (interim status)].
13. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.2], a “*solid waste*” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
14. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.3], a solid waste is a “*hazardous waste*” if it meets any of the criteria set forth in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.4(b)].
15. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous wastes and are provided with the EPA Hazardous Waste Numbers D001 through D043. A D001 hazardous waste is a solid waste that exhibits the characteristic of ignitability; a D002 hazardous waste is a solid waste that exhibits the characteristic of corrosivity; a solid waste that exhibits the characteristic of toxicity for cadmium is a D006 hazardous waste; a solid waste that exhibits the characteristic of toxicity for lead is a D008 hazardous waste; and a solid waste that exhibits the characteristic of toxicity for selenium is a D010 hazardous waste.
16. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.30], a solid waste is a hazardous waste if it is listed in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. Part 261, Subpart D] and is not otherwise excluded by Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.22]. Listed hazardous wastes include the “F-listed” wastes identified in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. §§ 261.31(a)]. F001 through F005 listed wastes are spent solvents from nonspecific processes. When spent, the following nonhalogenated solvents are F005 listed hazardous wastes: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane.
17. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], a “*generator*” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
18. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], a “*facility*” includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.”

19. Pursuant to Ga. Comp. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], a “*person*” includes a “*Federal Agency*”; similarly, “*Federal agency*” means any department, agency, or other instrumentality of the Federal Government.
20. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10], an “*owner*” is the person who owns a facility or part of a facility and an “*operator*” is “the person responsible for the overall operation of a facility.”
21. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in Ga. Comp. R. and Regs. 391-3-11-.07(1) [40 C.F.R. § 261.2], must determine if that waste is a hazardous waste following the methods articulated in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.11].
22. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)], a generator of greater than 1,000 kilograms of hazardous waste in a calendar month is a Large Quantity Generator (LQG) and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Section 12-8-66 of GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the applicable conditions listed in Ga. Comp. R. and Regs. 391-11-.08(1) [40 C.F.R. § 262.34(a)(1)-(4)] (hereinafter referred to as the “*LQG Permit Exemption*”).
23. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2)], which is a condition of the LQG Permit Exemption, a generator is required to ensure that the date upon which each period of accumulation begins is clearly marked and visible on each container.
24. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.35], and is a condition of the LQG Permit Exemption, a generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, *unless* aisle space is not needed for any of these purposes.
25. Ga. Comp. R. and Regs 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Ga. Comp. R. and Regs 391-3-11-.10(1) [40 C.F.R. § 265.16(c)], and is a condition of the LQG Permit Exemption, facility personnel must take part in an annual review of the initial training required under RCRA.
26. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(b)], an LQG who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of Ga. Comp. R. and Regs. 391-3-11-.10(2) and 391-3-11-.10(1) [40 C.F.R. Parts 264 and 265] and the permit requirements of 391-3-11-.11(1)(a) [40 C.F.R. Part 270].

27. Pursuant to Ga. Comp. R. and Regs. 391.-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation where the wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status, as required by Section 12-8-66 of the GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)], provided that the generator complies with the satellite accumulation area conditions listed in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(i)-(ii)] (hereinafter referred to as the “*SAA Permit Exemption*”).
28. Pursuant to Ga. Comp. R. and Regs. 391.-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(i)], which incorporates Ga. Comp. R. and Regs 391-3-11-.10(1) [40 C.F.R. § 265.173(a)], and is a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed when waste is not being added or removed.
29. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.9], a Large Quantity Handler of Universal Waste (*LQHUW*) is a universal waste handler who accumulates 5,000 kilograms or more of total universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.
30. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.33(d)(1)], a LQHUW must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment by containing lamps in closed containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps.
31. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.33(d)(2)], a LQHUW must immediately clean up and place in a container any universal waste lamp that is broken.
32. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.34(e)], a LQHUW must label or mark each lamp or container of lamps clearly with any one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s),” or “Used Lamps.”
33. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.35(a) and (c)], a LQHUW may accumulate universal waste no longer than one year and must be able to demonstrate the length of time that the universal waste has accumulated from the date that it became a waste or was received.
34. Pursuant to Ga. Comp. R. and Regs. 391-3-11-.17(1) [40 C.F.R. 279.22(c)], containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words “Used Oil.”

IV. EPA ALLEGATIONS AND DETERMINATIONS

35. As a department, agency, or instrumentality of the United States, Respondent is a “*person*”, as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
36. As a department, agency, or instrumentality of the executive branch of the Federal Government, Respondent is subject to the EPA’s administrative enforcement authorities set out in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), pursuant to Section 6001(b) of RCRA, 42 U.S.C. § 6961(b).
37. Respondent is a “*person*” within the meaning of Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10].
38. Respondent is the “*owner/operator*” of a “*facility*” located at Fort Benning, Georgia, as those terms are defined in Ga. Comp. R. and Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10].
39. Respondent is a “*generator*” of “*hazardous waste*” as those terms are defined in Ga. Comp. R. and Regs. 391-3-11-.02(1) and 391-3-11-.07(1), respectively [40 C.F.R. §§ 260.10 and 261.3].
40. Respondent’s waste streams have been identified to include but not be limited to D001, D002, D006, D008, D010, and F005.
41. On or about April 26, 1990, Respondent notified the Georgia Environmental Protection Division (GAEPD) that it is a LQG of hazardous waste as that term is defined in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)] and that it is a LQHUW as that term is defined in Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.9].
42. Respondent is Fort Benning, a U. S. Army military base that is home to the Infantry School, Airborne School, Ranger School and the Armor School.
43. On March 4-6, 2013, inspectors with the EPA and the GAEPD conducted a compliance evaluation inspection (CEI) to determine the Facility’s compliance with RCRA. The EPA’s findings were documented in a RCRA Compliance Evaluation Inspection Report that was mailed to the Respondent on February 24, 2015.
44. At the time of the CEI, the EPA inspector (the inspector) observed 22 containers of hazardous waste at the Hazardous Materials (HazMat) Center, in the less than 90 day storage area, with accumulation start dates indicating that they had been stored longer than 90 days. Of these 22 containers, 11 containers had been stored for longer than 120 days; 1 of the 11 containers had been stored for more than 170 days.
45. The hazardous wastes stored beyond ninety days in the Haz Mat Center were waste paint (D008), waste antifreeze (D008, D010), spent fuse igniters (D006), waste aerosols (D001), waste acetone (D001), waste rags with lead (D008), waste toluene and lead (D008, D010, F005), waste kerosene (D001), and waste mineral spirits (D001).

46. At the time of the CEI, the inspector similarly observed four (4) containers of hazardous waste located at a less-than 90-day hazardous waste storage area within the FMX with accumulation start dates indicated they had been stored for at least 97 days. Specifically, one (1) container of hazardous waste aerosols was marked with a start date of November 26, 2012, one (1) container of waste acetone was dated November 27, 2012; one (1) container of waste oxidizing liquid was dated November 26, 2012; and one (1) container of hazardous waste sealing compound (D002) was dated November 26, 2012.
47. The 26 containers (22 from the HazMat and 4 from the FMX) of hazardous wastes were shipped off-site for disposal on the final day of the CEI. The hazardous waste manifest accompanying the shipment included entries for the following hazardous wastes: waste sodium hydroxide (D002); waste sealing compound – toluene (D001); waste parts washer fluid (D001); waste antifreeze contaminated with lead (D008), waste paint related material (D001), waste diethylenediamine (D002); and waste adhesive (D001).
48. The EPA therefore alleges that Respondent violated GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste in excess of 90 days without a permit or interim status, in violation of Ga. Comp. R. and Regs. 391-3-11-.08 [40 C.F.R. § 262.34(b)].
49. At the time of the CEI, the inspector observed a container of JP8 fuel filters, a D001 hazardous waste, located at the FMX that was not marked with an accumulation start date.
50. The EPA therefore alleges that Respondent violated GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption by not complying with the dating requirements of Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2)].
51. At the time of the CEI, the inspector observed that the less than 90-day hazardous waste storage area located in the HazMat Center did not have aisle space sufficient to allow unobstructed movement in the event of an emergency.
52. The EPA therefore alleges that Respondent violated GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption given in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 265.34(a)(4)], by not complying with the aisle space requirements of Ga. Comp. R. and Regs. 391-3-11-.10(1) [40 C.F.R. § 265.35].
53. At the time of the CEI, the inspector observed that the Respondent failed to provide annual RCRA refresher training to its personnel responsible for managing the less than 90-day hazardous waste storage areas located at the 3rd Squadron 1st Cavalry (3/1 Cavalry) area and the FMX.

54. The EPA therefore alleges that Respondent violated GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption given in Ga. Comp. R. and Regs 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by not complying with the personnel training requirements of Ga. Comp. R. and Regs 391-3-11-.10(1) [40 C.F.R. § 265.16(c)].
55. At the time of the CEI, the inspector observed that containers of hazardous wastes, including oily rags (D001) at the Directorate of Training Sustainment and the Main Post Auto Skills Shop Satellite Accumulation Areas (SAAs), were not being managed at or near their respective point of generation.
56. The EPA therefore alleges that Respondent violated GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption by not storing hazardous wastes at or near the point of generation where wastes initially accumulate, as set forth in Ga. Comp. R. and Regs. 391.-3-11-.08(1) [40 C.F.R. 262.34(c)(1)].
57. At the time of the CEI, the inspector observed numerous open containers of hazardous waste at SAA locations through-out the Facility, including but not limited to:
- a. Two 55-gallon containers of hazardous waste used coolant and hazardous waste, used Mogas (i.e., automobile fuel) (D001) located at the Rangers STB (Building 2854);
 - b. One 55-gallon container of hazardous waste JP8 fuel filters (D001) located at the 3/1 Cavalry;
 - c. Three 55-gallon containers of hazardous waste paint (D001) located at Building #2854 Rangers STB, the 2nd Battalion 69th Armor, and the 2nd Battalion 19th Infantry;
 - d. Three 55-gallon containers labeled hazardous waste containing mixed fluids such as mixed oil and antifreeze (D008, D010) located at the 3/1 Cavalry;
 - e. One 55-gallon container of hazardous waste antifreeze (D008, D010) contaminated with lead located at the 203rd Brigade Support Battalion (BSB); and,
 - f. Three 55-gallon containers of hazardous waste antifreeze (D008, D010) contaminated with lead located at the ITT Shops A & B.
58. The EPA therefore alleges that Respondent violated GHWMA, Ga. Code Ann. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption set forth in Ga. Comp. R. and Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(c)(1)(i)], by not complying with the container management requirements of Ga. Comp. R. and Regs 391-3-11-.10(1) [40 C.F.R. § 265.173(a)].

59. At the time of the CEI, the inspector observed an open container of universal waste lamps, located at the 203rd Brigade Support Battalion (BSB), which contained a broken lamp.
60. The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.33(d)(2)], by failing to immediately clean up and place in a closed container any universal waste lamps that are broken.
61. At the time of the CEI, the inspector observed a box of universal waste fluorescent lamps, located in the 3/1 Cavalry area, that was not labeled with one of the following phrases: “Universal Waste – Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”
62. The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.34(e)] by failing to label or mark each lamp or container of lamps clearly with one of the following phrases: “Universal Waste-Lamp(s),” or “Waste Lamp(s),” or “Used Lamps.”
63. At the time of the CEI, the inspector observed four (4) open containers of universal waste fluorescent lamps: two (2) of the open containers were located at the HazMat Center Building #377, (one) 1 open container was located at the 3rd Squadron 1st Cavalry (3/1) area, and one (1) open container was located at the 203rd BSB.
64. The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.33(d)(1)], by failing to ensure that containers of universal waste lamps remained closed.
65. At the time of the CEI, the inspector observed that Respondent had failed to mark accumulation start dates on containers of universal waste lamps located at the 3/1 Cavalry area, the 2nd Battalion 4th Infantry area, and the 1st Battalion 50th Infantry area.
66. The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.18 [40 C.F.R. § 273.35(a) and (c)], by failing to demonstrate the length of time that the facility’s universal waste had been accumulating from the date that the universal waste became a waste or was received from another handler.
67. At the time of the CEI, the inspector observed a drip pan at the 3/81 Armor area that was not labeled with the words “Used Oil”.
68. The EPA therefore alleges that Respondent violated Ga. Comp. R. and Regs. 391-3-11-.17(1) [40 C.F.R. § 279.22(c)], for failing to label a container of Used Oil with the words “Used Oil”.

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the Parties agree to the following:

69. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and Section 6001(b)(1) of RCRA, 42 U.S.C. § 6961(1).
70. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
71. Respondent waives any right to contest the allegations and its right to appeal the proposed CA/FO, and acknowledges that it has had the opportunity to confer with the Administrator as contemplated under Section 6001(b)(2) of RCRA, 42 U.S.C. § 6961(b)(2).
72. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO.
73. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.
74. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
75. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
76. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.
77. Each party will pay its own costs and attorneys' fees.
78. Respondent certifies to EPA by its signature herein that it is presently in compliance with the provisions of RCRA referenced herein.
79. 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 C, 42 U.S. C. §§ 6921- 6939e, or any regulations promulgated thereunder.

VI. PAYMENT OF CIVIL PENALTY

80. Subject only to limitations and restrictions imposed by applicable Federal law, Respondent consents to the payment of a civil penalty in the amount of **FORTY NINE THOUSAND NINE HUNDRED DOLLARS (\$49,900.00)** which is to be paid within thirty (30) days of the effective date of this CA/FO.
81. Nothing herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. Section 1341. If Respondent determines that payment or obligation of funds by or on a specific date would constitute a violation of the Anti-Deficiency Act, Respondent shall timely provide Complainant with such a written determination along with all information and assistance that Complainant may need to thereafter appropriately adjust the dates established for Respondent's payment or obligation of such funds.
82. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1818

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: John Schmid, (202) 874-7026
REX (Remittance Express): 1-866-234-5681

83. Respondent shall submit a copy of the payment to the following individuals:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

And to:

Héctor M. Danois, Acting Chief
Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

84. In accordance with 40 C.F.R. § 13.3, any debt owed to the EPA as a result of Respondent's failure to make timely payments in accordance with this Section V. *Payment of Civil Penalty*, shall be resolved by negotiation between the EPA and Respondent or by referral to the General Accounting Office.

VII. PARTIES BOUND

85. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
86. No change of legal status relating to Respondent or to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
87. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

VIII. RESERVATION OF RIGHTS

88. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's Facility may present an imminent and substantial endangerment to human health or the environment.
89. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
90. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the storage, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's Facility.

IX. OTHER APPLICABLE LAWS

91. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

X. SERVICE OF DOCUMENTS

92. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in this proceeding:

Gregory D. Luetscher
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
Luetscher.greg@epa.gov
(404) 562-9677

93. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

Colonel Andrew C. Hilmes
Garrison Commander
Headquarters, United States Army Garrison

XI. SEVERABILITY

94. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

XII. FORCE MAJEURE

95. Respondent shall perform the requirements of this CA/FO within the time frames set forth herein unless the performance is prevented or delayed by events which constitute a force majeure. A force majeure is defined as any event arising from causes not reasonably foreseeable and beyond the control of Respondent which cannot be overcome by due diligence. A force majeure shall mean any event arising from causes beyond the control of a party that causes a delay in or prevents the performance of any obligation under this CA/FO, including but not limited to: acts of God; fire; war; insurrection; civil disturbance; explosion; unanticipated breakage or accident to machinery, equipment or lines of pipe despite reasonably diligent maintenance; adverse weather conditions that could not be reasonably anticipated; unusual delay in transportation; restraint by court order or order of public authority; inability to obtain, at reasonable cost and after exercise of reasonable diligence, any necessary authorizations, approvals, permits or licenses due to action or inactions of any governmental agency or authority other than Respondent; delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence; and insufficient availability of appropriated funds, if Respondent shall have made timely request for such funds as part of the budgetary process. A force majeure shall also include any strike or other labor dispute, whether or not within the control of a party affected thereby. Force majeure shall not include increased costs or expenses of an action, whether or not anticipated at the time of the action was initiated.


XIII. EFFECTIVE DATE

96. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

In the matter of Fort Benning, Docket No. RCRA-04-2015-4012(b):

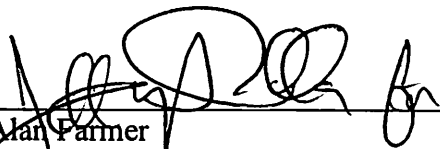
AGREED AND CONSENTED TO:

U.S. Dept. of Defense, U.S. Army Garrison, U.S. Infantry and Fort Benning

By: 
Andrew C. Hilmes
Colonel, U.S. Army
Garrison Commander
Fort Benning

Dated: 24 Feb 2016

United States Environmental Protection Agency

By: 
G. Alan Farmer
Director, Resource Conservation
and Restoration Division
US EPA Region 4

Dated: 03/21/2016

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2015-4012(b)
)	
U.S. Infantry Center and Fort Benning)	Proceeding Under Section 3008(a) of the
6751 Constitution Loop, Suite 550)	Resource Conservation and Recovery Act,
Fort Benning, Georgia 31905-5000)	42 U.S.C. § 6928(a)
)	
EPA ID No.: GA3210020084)	
)	
Respondent)	
_____)	

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 23rd day of March, 2016

BY: Tanya Floyd
Tanya Floyd
Regional Judicial Officer
EPA Region 4

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of **U.S. Dept. of Defense, U. S. Infantry Center and Fort Benning** , Docket Number: RCRA-04-2015-4012(b), and have served the parties listed below in the manner indicated:

Greg Leutscher
Associate Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's Electronic Mail)

Randy Jackson
Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

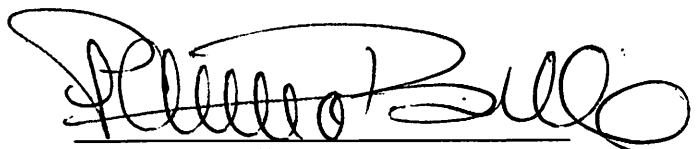
(Via EPA's Electronic Mail)

Quantindra Smith
Enforcement and Compliance Branch
Resource Conservation and Restoration Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

(Via EPA's Electronic Mail)

United States Army Garrison
Fort Benning, Georgia 31905-5000

Date: 3-24-16



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511