

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. The EPA has given the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (“PADEP”), prior notice of the issuance of this Consent Agreement and Final Order in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.
12. By signing this Consent Agreement, Respondent waives any rights or defenses that respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Consent Agreement.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

13. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
14. Pennsylvania's underground storage tank ("UST") program is approved in lieu of the Federal program in accordance with Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. § 6991-6991m. The Commonwealth's program, as administered by the Pennsylvania Department of Environmental Protection, was approved by the EPA pursuant to 42 U.S.C. 6991c and 40 C.F.R. Part 281. The EPA approved the Pennsylvania underground storage tank program on September 11, 2003, and approval was effective on September 11, 2003. A subsequent program revision application was approved by the EPA and became effective on September 23, 2024.
15. Pennsylvania has primary responsibility for enforcing its underground storage tank program. However, the EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, regardless of whether the Commonwealth has taken its own actions, as well as under any other applicable statutory and regulatory provisions.
16. At all times relevant to the alleged violations in this Consent Agreement and Final Order, Respondent has been a Pennsylvania special-purpose district that operates local public primary and secondary schools in the Commonwealth of Pennsylvania.
17. At all times relevant to the alleged violations in this Consent Agreement and Final Order, Respondent has been a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 25 Pa. Code § 245.1.
18. At all times relevant to the alleged violations in this Consent Agreement and Final Order, Respondent has been the "owner" and/or "operator" of USTs and "UST systems," as those terms are defined in Sections 9001(3), (4), and (10) of RCRA, 42 U.S.C. § 6991(3), (4), and (10), and 25 Pa. Code § 245.1, respectively, at the Central Dauphin School District Transportation Center facility located at 714 Rutherford Road, Harrisburg, Pennsylvania 17109 ("the Facility").
19. On November 29, 2023, under the authority of Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a), an EPA inspector conducted a compliance evaluation inspection at the Facility (the "Inspection").
20. At the time of the Inspection, the EPA approved Pennsylvania UST program was the one approved and effective September 11, 2003.

21. At the time of the November 29, 2023 Inspection, and at all times relevant to the applicable violations alleged herein, three (3) USTs, as described below, each of which contained a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 25 Pa. Code § 245.1, were located at the Facility:

Tank #	Material Stored	Capacity (gal.)	Installation Date	Tank Construction Material	Piping Construction Material
1	Regular Gas	12,000	9/1/1989	Single-walled steel	Double-walled FRP*
2	Diesel	12,000	9/1/1989	Single-walled steel	Double-walled FRP
4	Used Oil	1,000	9/1/1989	Single-walled steel	Double-walled FRP

*FRP = Fiberglass-reinforced plastic

22. At all times relevant to the alleged violations in this Consent Agreement and Final Order, USTs 1, 2, and 4 are “new underground storage tank systems,” as defined in 25 Pa. Code § 245.1, which states that a “new underground storage tank system” means a tank system used to contain an accumulation of regulated substances or for which installation has commenced after December 22, 1988.”

Count 1

(Failure to Conduct Proper Tank Release Detection for One UST (Tank #4))

23. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
24. Pursuant to 25 Pa. Code § 245.442(1)(iv), owners and operators of underground storage tank system or storage tank facility shall ensure that tanks shall be monitored at least every 30 days for releases.
25. Respondent was conducting tank release detection for UST #4 by using manual tank gauging, which must be conducted in accordance with 25 Pa. Code § 245.444(2).
26. A review of the release detection records provided by the Respondent revealed that with the exception of two months (September 2022 and May 2023—June 2022 failed due to product being removed from the UST during the test, but the test was not invalid) during the period of February 2022 and December 2023, an adequate rest period (where no product was added or removed from the UST) of 58 hours was not

observed when the manual tank gauging measurement was taken and that mathematical errors were observed in the calculations which rendered the conclusions invalid in violation of 25 Pa. Code § 245.444(2).

27. Respondent violated 25 Pa. Code § 245.442(1)(iv) from February 1, 2022 until June 1, 2022; July 2, 2022 until September 1, 2022; October 2, 2022 until May 1, 2023; and June 2, 2023 until December 1, 2023 by failing to conduct proper tank release detection at least every 30 days for UST #4 at the Facility.
28. In failing to comply with 25 Pa. Code § 245.442(1)(iv), Respondent has violated Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m, and is subject to the assessment of penalties under Section 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2).

Count 2

(Failure to Test Cathodic Protection System at Least Every Three Years for Three USTs)

29. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
30. Pursuant to 25 Pa. Code § 245.432(2)(i), owners and operators of underground storage tank systems equipped with cathodic protection systems (“CP”) shall be inspected for proper operation by a qualified cathodic protection tester within 6 months of installation and at least every 3 years thereafter.
31. According to the information provided to the EPA, the Respondent employs an impressed current system (cathodic protection) for corrosion prevention for USTs #1, #2, and #4 at the Facility.
32. According to information provided to the EPA at the time of the Inspection, the Respondent tested the CP at the Facility and achieved passing results on January 7, 2020 and April 21, 2023. Following the January 7, 2020 CP test, the next test was due to be performed on or before January 7, 2023 pursuant to 25 Pa. Code § 245.432(2)(i). The April 21, 2023 CP test was 104 days beyond the due date.
33. Respondent violated 25 Pa. Code §§ 245.432(2)(i) by failing to conduct CP testing for the USTs at the Facility every 3 years for the particular time period cited in the paragraph immediately above.
34. In failing to comply with 25 Pa. Code §§ 245.432(2)(i), Respondent has violated Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m, and is subject to the assessment of penalties under Section 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2).

CIVIL PENALTY

35. In settlement of the EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **FIFTEEN THOUSAND DOLLARS (\$15,000.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
36. The civil penalty is based upon the EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Sections 9006(c) and (e) of RCRA, 42 U.S.C. §§ 6991e(c) and (e), which includes the seriousness of the violation, any good faith efforts to comply with the applicable requirements, the compliance history of the owner or operator and any other factors considered appropriate. In developing a proposed penalty for the violations alleged in this Consent Agreement, the EPA will take into account the particular facts and circumstances of this case with specific reference to the EPA's November 1990 *U.S. E.P.A. Penalty Guidance for Violations of UST Regulations* ("UST Penalty Policy"), the 2023 *Revised Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations* ("Enforcement Penalty Policy") (collectively the "UST Penalty Policies), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing the EPA's civil penalty policies to account for inflation.
37. Respondent agrees to pay a civil penalty in the amount of **\$ 15,000.00** ("Assessed Penalty") within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
38. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. Any checks should be made payable to "Treasurer, United States of America."
39. When making a payment, Respondent shall:
 - a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, **RCRA-03-2025-0084**
 - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve Proof of Payment simultaneously **by email** to the following person(s):

Jeffrey S. Nast, Esq.
Sr. Assistant Regional Counsel
nast.jeffrey@epa.gov,

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov,

and

U.S. EPA Region 3 Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

“Proof of Payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

40. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Consent Agreement, the EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.
- a. Interest. Interest begins to accrue from the Effective Date of this Consent Agreement. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States, the rate of interest is set at the Internal Revenue Service (“IRS”) standard underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.
- b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA’s costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Consent Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Effective Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Effective Date.
41. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
 - b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the IRS for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
 - c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, per 40 C.F.R. § 13.17.
 - d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.
42. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
 43. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.
 44. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
 45. The parties consent to service of the Final Order by e-mail at the following valid e-mail addresses: nast.jeffrey@epa.gov (for Complainant), and swyland@salzmannughes.com (for Respondent).

GENERAL SETTLEMENT CONDITIONS

46. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
47. Respondent certifies that any information or representation it has supplied or made to

the EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that the EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

48. Respondent certifies to the EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

49. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of RCRA Subtitle I, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

50. This Consent Agreement and Final Order resolves only the EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. The EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. 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, 40 C.F.R. § 22.18(c). The EPA reserves any rights and remedies available to it under RCRA, Subtitle I, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

51. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

52. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of the EPA, Region 3, or his or her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

53. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties 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 Consent Agreement and Final Order.

For Respondent:

Central Dauphin School District

Date: May 13, 2025

By  _____
Eric Turman
Superintendent

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his or her designee, the Regional Judicial Officer, issue the attached Final Order.

By: KAREN MELVIN Digitally signed by KAREN MELVIN
Date: 2025.05.28 13:11:22 -04'00'

[*Digital Signature and Date*]
Karen Melvin, Director
Enforcement and Compliance Assurance Division
U.S. EPA – Region 3
Complainant

Attorney for Complainant:

By: JEFFREY NAST Digitally signed by JEFFREY NAST
Date: 2025.05.15 16:04:33 -04'00'

[*Digital Signature and Date*]
Jeffrey S. Nast
Sr. Assistant Regional Counsel
U.S. EPA – Region 3

FILED

Jun 03, 2025

12:53 pm

**U.S. EPA REGION 3
HEARING CLERK**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103**

In the Matter of: :
 :
 :
Central Dauphin School District : **U.S. EPA Docket No. RCRA-03-2025-0084**
600 Rutherford Road :
Harrisburg, Pennsylvania 17109 : **CONSENT AGREEMENT**
 :
Respondent. :
 :
 :
Central Dauphin School District : **Proceeding under Section 9006 of the Resource**
Transportation Center : **Conservation and Recovery Act, as amended, 42**
714 Rutherford Road : **U.S.C. Section 6991e**
Harrisburg, Pennsylvania 17109 :
 :
 :
 :

Facility.

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondent, Central Dauphin School District, 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 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the EPA's November 1990 *U.S. E.P.A. Penalty Guidance for Violations of UST Regulations* ("UST Penalty Policy"), and the 2023 *Revised Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations* ("Enforcement Penalty Policy") (collectively the "UST Penalty Policies") which reflects the statutory penalty criteria and factors set forth Section 9006(c) of the Resource Conservation and Recovery Act ("RCRA"), and the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing the EPA's civil penalty policies to account for inflation.

NOW, THEREFORE, PURSUANT TO Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **FIFTEEN THOUSAND DOLLARS (\$15,000.00)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: 6/3/25

By: JOSEPH LISA
[Digital Signature and Date]
Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region 3

Digitally signed by JOSEPH LISA
Date: 2025.06.03 09:03:36
-04'00'

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
Central Dauphin School District	:	U.S. EPA Docket No. RCRA-03-2025-0084
600 Rutherford Road	:	
Harrisburg, Pennsylvania 17109	:	CONSENT AGREEMENT
	:	
Respondent.	:	
	:	
Central Dauphin School District	:	Proceeding under Section 9006 of the Resource
Transportation Center	:	Conservation and Recovery Act, as amended, 42
714 Rutherford Road	:	U.S.C. Section 6991e
Harrisburg, Pennsylvania 17109	:	
	:	
Facility	:	

CERTIFICATE OF SERVICE

I certify that the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the ***Consent Agreement and Final Order***. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Scott Wyland, Esq.
Salzmann Hughes, PC
1801 Market Street, Ste. 300
Camp Hill, PA 17111

swyland@salzmannhughes.com

Jeffrey S. Nast
Senior Assistant Regional Counsel
U.S. EPA, Region 3
nast.jeffrey@epa.gov

Melissa Toffel
RCRA Branch, Enforcement and Compliance Assurance Division
U.S. EPA, Region 3
toffel.melissa@epa.gov

BEVIN
ESPOSITO

Digitally signed by BEVIN ESPOSITO
Date: 2025.05.03 12:55:39 -0400

[Digital Signature and Date]

Bevin Esposito
Regional Hearing Clerk
U.S. EPA, Region 3