



DEPARTMENTS OF THE ARMY & AIR FORCE
Headquarters Army & Air Force Exchange Service (GC)
PO Box 650060
Dallas, TX 75265-0060



JUN 06 2008

Helen S. Ferrara
Regional Judicial Officer
EPA Region II
US Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2008 JUN 13 PM 2:25
REGIONAL HEARING
CLERK

Re: In the Matter of Puerto Rico Army National Guard et al., Docket No. RCRA -02-2008-7502

Dear Ms Ferrara:

Please find enclosed an original and one copy of an Answer and Request for Hearing on behalf of Respondent, Army and Air Force submitted pursuant to 40 C.F.R. § 22.15 regarding the above-captioned matter. Please have these documents marked *filed* and return a conformed copy to me along with a written response that the Request for Hearing has been granted.

Respondent AAFES also wishes to pursue the possibility of settlement and would like to schedule an informal conference with the EPA to discuss settlement options, including the use of Supplemental Environmental Projects as part of a negotiated settlement.

Please contact the undersigned at (214) 312-3067 or via electronic mail to WhittingtonM@aafes.com so that we may schedule a conference with the appropriate government representatives.

There are other Counsel who will be appearing and participating in the settlement process.

Sincerely,

MICHAEL C. WHITTINGTON
Associate General Counsel
Commercial and Financial Law Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of

Puerto Rico Army National Guard, Camp
Santiago; and the Army and Air Force
Exchange Service, Camp Santiago, Salinas,
Puerto Rico

Respondents

Proceeding Under Section 9006 of the
Solid Waste Disposal Act, as amended

ANSWER AND REQUEST FOR HEARING

Docket No. RCRA-02-2008-7502

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
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ANSWER

Respondents, The Army & Air Force Exchange Service, hereinafter referred to as AAFES, by way of Answer to United States Environmental Protection Agency (USEPA) Complaint dated 31 March 2008 and received on 9 April 2008, hereby state:

1. Admitted as to the part pertaining to AAFES.
2. No admission is required since this paragraph sets forth a statement in law.
3. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
4. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
5. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
6. Admitted.
7. Neither admitted nor denied since this paragraph does not constitute a factual allegation.
8. Neither admitted nor denied since this paragraph does not constitute a factual allegation.
9. Admitted in part, in that AAFES is and has been the operator of two UST systems. Denied in part, in that Respondent AAFES does not own the two UST systems and has not since approximately the date that construction was completed in 2005. The conclusion of law is neither admitted nor denied since this portion of the paragraph does not constitute a factual allegation.
10. 10
Neither admitted nor denied since this paragraph does not constitute a factual allegation.
11. Neither admitted nor denied since this paragraph does not constitute a factual allegation.

12. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions of law.
13. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions of law.
14. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions of law.
15. Neither admitted nor denied since this paragraph constitute a factual allegation and sets forth statements or conclusions of law.
16. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions of law.
17. Respondent AAFES is without knowledge pertaining the factual allegations contained in this paragraph.
18. Admitted, as to the fact that these UST Systems store either diesel or gasoline for use in military or other vehicles. The rest of the paragraph requires no admission or denial since it does not constitutes a factual allegation and sets fort a statement or conclusion in law.
19. Admitted.
20. Admitted.
21. Admitted.
22. Admitted.
23. Admitted.
24. Admitted.
25. Admitted, as the statement in the Respondent's NOV Response of 23 August 2007. However, AAFES would like to clarify that upon completion of the construction of the UST system, the military equivalent of indicia of ownership responsibility passed to PRANG. AAFES denies ownership of any real property or real property improvements at Camp Santiago Training Center.
26. Admitted.

Count 1

Respondent PRARNG's Failure to Submit Accurate Notification to the Environmental Quality Board for POL UST System 2

27. Answers to paragraphs 1 through 26 are incorporated by reference and as if set forth in their entirety herein.
28. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions of law.
29. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
30. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
31. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
32. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
33. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.

34. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
35. Admitted, as stated in the 24 September 2007 e-mail. Said e-mail was in response to the Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
36. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
37. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.

Count 2

Respondent PRARNG's Failure to Operate and Maintain Corrosion Protection System and to Maintain Documentation of the Operation of Corrosion Protection Equipment For POL Tanks 1 and 2

38. Answers to paragraphs 1 through 37 are incorporated by reference and as if set forth in their entirety herein.
39. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions in law.
40. . Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
41. . Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
42. Admitted..
43. Admitted.
44. Admitted.
45. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
- 46.
47. Admitted. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES. hand.
48. Admitted.
49. Admitted.
50. Admitted.
51. Admitted.
52. Admitted..
53. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
54. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions in law.
55. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions in law.
56. Neither admitted nor denied since this paragraph sets forth statements or conclusions in law.

57. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
58. Admitted.
59. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
60. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
- 61.
62. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES..
63. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES. **Count 3**

**Respondent PRARNG'S Failure to Inspect Cathodic Protection System of the POL
UST Systems 1 and 2 Within Six Months of Installation and Every 3 Years Thereafter
and to Maintain Records of Results of Testing from the Last 2 Triennial Inspections.**

64. Answers to paragraphs 1 through 63 are incorporated by reference and as if set forth in their entirety herein.
65. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions in law
66. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
67. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
68. Admitted.
69. Admitted.
70. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
71. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
72. Admitted.
73. Admitted, as stated in the Respondent's NOV Response dated 23 August 2007. Respondent have been conducting all required inspections and testing since the new UST Cathodic Protection System were installed.
74. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion of law and reflects a situation about which AAFES has no knowledge.
75. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
76. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
77. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.

78. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law .

Count 4

Respondent PRARNG's Failure to Inspect Every Sixty (60) Days the Cathodic Protection System of POL UST Systems 1 and 2 and to Maintain Records of the Results of the Last 3 Sixty (60) Day Inspections

79. Answers to paragraphs 1 through 78 are incorporated by reference and as if set forth in their entirety herein.

80. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.

81. Neither admitted nor denied since this Paragraph sets forth a statement or conclusion in law.

82. Admitted that this fact was informed to the inspector and also notified during the Respondent's NOV Response dated 23 August 2007. The rest is neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES

83. Admitted.

84. . Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.

85. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.

86. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.

87. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.

88. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.

89. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.

90. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.

91. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.

Count 5

Respondent PRARNG's Failure to Have Overfill Prevention Equipment on POL UST Systems 1 and 2 and the MATES UST System

92. Answers to paragraphs 1 through 91 are incorporated by reference and as if set forth in their entirety herein.

93. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.

94. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
95. Admitted..
96. Admitted.
97. .Admitted.
98. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.

99. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES..

Count 6

**Respondent PRARNG's Failure to Provide Required Release Detection Monitoring
and to Maintain Release Detection Records for POL UST System 1 and the MATES
UST System**

100. Answers to paragraphs 1 through 99 are incorporated by reference and as if set forth in their entirety herein.
101. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions in law.
102. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions in law.
103. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions in law.
104. . Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
105. Neither admitted nor denied since this paragraph sets forth statements or conclusion in law.
106. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES..
107. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES..
108. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
109. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES..
110. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES..
111. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
112. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES..
113. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
114. Admitted..

115. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions in law.
116. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions in law.
117. Admitted.
118. Admitted..
119. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
120. Admitted.
121. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
122. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions in law.
123. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions in law.
124. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions in law.
125. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth statements or conclusions in law.
126. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
127. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
128. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
129. Neither admitted nor denied since the paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
130. Neither admitted nor denied since the paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.

Count 7

Respondent PRARNG's Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for POL UST System 2

131. Answers to paragraphs 1 through 130 are incorporated by reference and as if set forth in their entirety herein.
132. Neither admitted nor denied since the paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
133. . Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES
134. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
135. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.

136. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
137. Neither admitted nor denied since the paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
138. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
139. . Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES
140. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
141. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
142. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
143. Admitted.
144. Admitted.
145. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
146. Admitted.
147. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
148. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
149. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
150. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
151. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
152. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
153. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
154. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
155. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
156. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.

Count 8

Respondent's PRARNG's Failure to Conduct an Annual Test of the Operation of the Automatic Line Leak Detectors (ALLD'S) for POL UST System 2 and to Maintain Records of the Test.

157. Answers to paragraphs 1 through 130 are incorporated by reference and as if set forth in their entirety herein.
158. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
159. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
160. . Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES
161. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
162. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
163. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
164. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
165. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
166. Admitted. Respondent's
167. Admitted.
168. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
169. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
170. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
171. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
172. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
173. Neither admitted nor denied, as Respondent AAFES is without knowledge of the facts involved, which do not pertain to AAFES.
174. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.
175. Neither admitted nor denied since this paragraph does not constitute a factual allegation and sets forth a statement or conclusion in law.

Count 9

Respondent AAFES's Failure to Provide Required Release Detection Monitoring and to Maintain Release Detection Records for Pressurized Piping for AAFES UST Systems 1 and 2

176. Answers to paragraphs 1 through 175 are incorporated by reference and as if set forth in their entirety herein.

177. Denied as to “owner,” admitted as to “operator.”
178. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
179. Admitted.
180. Admitted.
181. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
182. Admitted.
183. Admitted.
184. Admitted.
185. Admitted.
186. Admitted.
187. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
188. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
189. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
190. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
191. Admitted.
192. Admitted.
193. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
194. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
195. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.

Count 10

Respondent AAFES’s Failure to Conduct an Annual Test of the Operation of the Automatic Line Leak Detectors (ALLDs) for Pressurized Piping for AAFES UST Systems 1 and 2 and to Maintain Records of the Test

196. Answers to paragraphs 1 through 195 are incorporated by reference and as if set forth in their entirety herein.
197. Admitted.
198. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
199. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
200. Admitted.
201. Admitted.
202. Admitted.

203. Admitted.
204. Admitted.
205. Admitted.
206. Admitted.
207. Admitted.
208. Admitted.
209. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
210. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
211. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
212. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
213. Admitted.
214. Admitted.
215. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
216. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.

Count 11

**Respondent AAFES's Failure to Respond Appropriately to Indications of Release for
AAFES UST Systems 1 and 2**

217. Answers to paragraphs 1 through 216 are incorporated by reference and as if set forth in their entirety herein.
218. Denied as to "owner," admitted as to "operator."
219. Admitted.
220. Admitted.
221. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
222. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
223. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
224. Admitted.
225. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
226. The conclusion of law is neither admitted nor denied since this does not constitute a factual allegation.
227. Admitted.
228. Admitted.
229. Admitted.
230. Admitted.
231. Admitted.

- 232. Admitted.
- 233. Admitted.
- 234. Admitted.

REQUEST FOR HEARING AND AFFIRMATIVE DEFENSES

A. REQUEST FOR HEARING

Respondents hereby request a hearing to contest factual issues and penalty assessments as set forth in the Complaint and raise the following defenses:

B. AFFIRMATIVE DEFENSES

1. Respondent AAFES is not the owner of the AAFES USTs.
2. EPA's penalty assessment matrix does not comport with the requirements of the Administrative Procedures Act, 5 U.S.C. §§ 500-576, is not promulgated pursuant to regulation, and therefore, is not enforceable. The administrative rulemaking process has not been followed and there has been no opportunity for public comment and input. At best, the penalty matrix should be used for guidance purposes only.
3. Economic benefit is not properly assessable against any governmental agency. EPA guidance states: "The economic benefit component represents the economic advantage that a violator has gained by delaying capital and/or non-depreciable costs and by avoiding operational and maintenance costs associated with compliance". Respondents do not and did not realize or gain any economic advantage. Respondents are not in a "for profit" enterprise whereby savings could be made. There is no provision for assessment of economic benefit under the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq. or the UST Regulations, 40 C.F.R. Part 280.
4. Respondents PRARNG and AAFES have demonstrated good faith by the response provided in both the NOV and RFI. That good faith should be considered here as a factor. Accordingly, a 25% reduction should be taken in the violator specific adjustments to matrix value for degree of cooperation.
5. Respondent PRARNG and AAFES have either corrected or taken the necessary steps to correct the alleged violations.
6. The gravity based component has been improperly weighted. Respondent tanks, at the time of installation, complied with all applicable regulations. Respondent recognizes that some management issues developed over time.
7. Respondents reserve the right to amend and supplement this Answer up until the time of hearing.

Answer to Complaint and Request for Hearing
Docket No. RCRA-02-2008-7502

JUN 06 2008

Dated: _____

Respectfully submitted by: _____



MICHAEL C. WHITTINGTON
Attorney for Respondent
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Commercial & Financial Law Division
Army & Air Force Exchange Service
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Dallas, TX 75236-1598
Whittingtonm@aafes.com
214-312-3067
Fax 214-465-2267

JUN 06 2008

CERTIFICATE OF SERVICE

I hereby certify that the Answer and Request for Hearing by myself, Michael C. Whittington, in the matter of Puerto Rico Army National Guard, Camp Santiago; and the Army and Air Force Exchange Service, Camp Santiago, Salinas, Puerto Rico, Docket No. RCRA-02-2008-7502, was served on the parties as indicated below:

Certified Mail -

Original:

Helen S. Ferrara
Regional Judicial Officer
EPA Region II
US Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

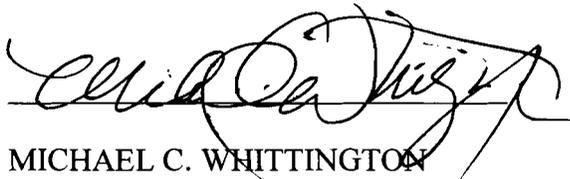
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