

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	DOCKET NO. RCRA-10-2026-0239
	)	
UNITED STATES AIR FORCE,	)	CONSENT AGREEMENT
	)	
Joint Base Elmendorf-Richardson,	)	
Alaska,	)	
	)	
Respondent.	)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 3008 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928.

1.2. Pursuant to Section 6001(b) of RCRA, 42 U.S.C. § 6961(b), EPA may take enforcement action against departments, agencies, and instrumentalities of the Federal government in the same manner and under the same circumstances as against any other person.

1.3. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), EPA granted the State of Alaska final authorization to administer and enforce a state hazardous waste program and to carry out such program in lieu of the federal program, effective August 6, 2026.

1.4. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), EPA may enforce the requirements of RCRA Subtitle C.

1.5. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), prior notification of this action has been given to Alaska Department of Environmental Conservation

(ADEC)’s Hazardous Waste Program.

1.6. Pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and the United States Air Force (“Respondent”) agrees to issuance of, the Final Order attached to this Consent Agreement (“Final Order”).

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Enforcement and Assurance Compliance Division, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of RCRA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violation of RCRA together with the specific provisions of RCRA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

3.1 Respondent is a department, agency, and/or other instrumentality of the United States.

3.2 Respondent is a “person” as that term is defined by Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

3.3 At all times relevant to this Consent Agreement, Respondent is and has been the “owner” and “operator” of a facility located at 11735 Vandenberg Avenue, Joint Base Elmendorf-Richardson, Alaska 99506 (the “Facility”).

3.4 EPA added Elmendorf Air Force Base and Fort Richardson to the National Priorities List in 1990 and 1994, respectively.

3.5 The Air Force, EPA, and ADEC signed a CERCLA Federal Facilities Agreement (“FFA”) for Elmendorf Air Force Base in November 1991. The Army, EPA, and ADEC signed a CERCLA FFA for Fort Richardson in December 1994. The purpose of the FFA was to implement the selected interim and final remedial actions at the Facility in accordance with CERCLA and applicable state law and to assure compliance with RCRA and other federal and state hazardous waste laws and regulations for matters covered within the FFA.

3.6 On December 16, 2003, EPA issued a RCRA Hazardous Waste Facility Permit (“Permit”) to U.S. Air Force for closure of the open burning/open detonation unit (“OB/OD Unit”) and for corrective action at all solid waste management units (“SWMU”) at the Facility.

3.7 The Permit was modified on December 1, 2010, (“2010 Permit”) to reflect the merger of Elmendorf Air Force Base with Fort Richardson U.S. Army Base and merged the RCRA hazardous waste management permit and corrective action requirements for both bases into a single permit for the Facility. The Permit incorporated the FFA by reference and included the FFA as an attachment to the Permit.

3.8 The Permit expired on December 15, 2013. According to the Permit, its conditions remained in effect until the permit was reissued. The Permit was reissued on October 30, 2023, to Joint Base Elmendorf-Richardson (“JBER” or “Permittee”). The Permit was modified on September 10, 2024.

3.9 The 2010 Permit defined “hazardous constituent” as “any constituent identified in Appendix VIII of 40 C.F.R. Part 261, or any constituent identified in Appendix IX of 40 C.F.R. Part 264.”

3.10 The 2010 Permit defined “release” as “any spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of hazardous waste (including hazardous constituents) into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing hazardous wastes or hazardous constituents).”

3.11 The Permit defined “SWMU” as “any discernible unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such units include any area at a facility at which hazardous wastes or hazardous constituents have been routinely and systematically released.”

3.12 Condition IV.C.1. of the 2010 Permit states that: “The Permittee shall notify the Administrator, in writing, of any release(s) of hazardous waste or hazardous constituents from any SWMU. Such newly-discovered releases may be from newly-identified SWMU’s [sic], from SWMU’s [sic] at which the Administrator had previously determined that no further investigation was necessary, or from SWMU’s [sic] investigated as part of this permit. . . . [W]ithin fifteen (15) calendar days of discovery of the release the Permittee shall submit in writing an initial notification report of the discovery. This notification shall alert the Agency to the magnitude of the threat.”

3.13 Under the terms of the Permit, the OB/OD Unit is a SWMU.

3.14 Tetrachloroethylene (“perchloroethylene” or “PCE”), trichloroethylene (“TCE”), benz(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(g,h,i)perylene,

benzo(k)fluoranthene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene, arsenic, naphthalene, and bis(2-Ethylhexyl)phthalate (“DEHP”) are identified in Appendix VIII of 40 C.F.R. Part 261, and/or in Appendix IX of 40 C.F.R. Part 264. Therefore, these chemicals fall under the 2010 Permit’s definition of “hazardous constituent”, and releases of these chemicals are subject to Condition IV.C.1. of the Permit.

3.15 Hexahydro-1,3,5-trinitro-1,3,5-triazine (“RDX”) is a characteristic hazardous waste under RCRA and releases of this chemical are subject to Condition IV.C.1. of the 2010 Permit.

3.16 In November 2018, as a result of groundwater monitoring required by the Permit, Respondent discovered releases from the OB/OD Unit of several types of hazardous waste, Appendix VIII of 40 C.F.R. Part 261 hazardous constituents, and/or Appendix IX of 40 C.F.R. Part 264 chemicals that exceeded OB/OD project screening levels (“PSLs”), JBER PSLs, and/or ADEC groundwater/surface water cleanup levels (“CULs”), as documented in the finalized report entitled: “Open Burning/Open Detonation Pad Site Closure Assessment Report” (“2018 OB/OD Report”).

3.17 According to the 2018 OB/OD Report, Respondent detected PCE in eight groundwater samples, and seven of those samples exceeded JBER PSLs and ADEC CULs. Exceedances ranged from 41 micrograms per liter (µg/L) to 4,700 µg/L. The JBER PSL is 57 µg/L and the ADEC CUL is 41 ug/L.

3.18 Releases of additional hazardous wastes and hazardous constituents identified in the 2018 OB/OD Report that exceeded PSLs and/or CULs included Benz(a)anthracene, Benzo(a)pyrene, Benzo(b)fluoranthene, Benzo(g,h,i)perylene, Benzo(k)fluoranthene, Dibenz(a,h)anthracene, Indeno(1,2,3-cd)pyrene, Arsenic, Naphthalene, TCE, DEHP, and RDX.

3.19 Respondent did not notify the Administrator of the release of hazardous wastes and hazardous constituents from the SWMU, per Permit Condition IV.C.1., until February 23, 2026, about seven years and two months after Respondent had knowledge of the release from the 2018 OB/OD Report.

3.20 Respondent violated the terms of the 2010 Permit Condition IV.C.1. by failing to notify the Administrator, in writing, of the newly-discovered releases of hazardous wastes and hazardous constituents from the SWMU within the required timeframe.

3.21 Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$124,426 per day of noncompliance for each violation of a requirement of Subtitle C of RCRA, issue an order requiring compliance, or both.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$47,003 (the “Assessed Penalty”).

4.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

4.5. Payments under this Consent Agreement and the Final Order shall be paid by any of the electronic methods specified at: www.epa.gov/financial/makepayment and in accordance

with instructions provided at that webpage. Respondent must note on the payment its name and the docket number of this action. If payment is made using the IPAC application, use the Agency Location Code 68-01-0727 and include the Docket Number of this agreement in the description field of the IPAC. For questions, the customer service contact can be found at <https://www.epa.gov/financial/federal>.

4.6. Payment instructions are available at: www.epa.gov/financial/makepayment and www.epa.gov/financial/additional-instructions-making-payments-epa. Concurrently with all payments or within 24 hours of any payment, Respondent must serve copies of proof of payment to the following persons:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 10
Via electronic mail to:
R10_RHC@epa.gov

Chris Bellovary
U.S. Environmental Protection Agency, Region 10
Via electronic mail to:
Bellovary.chris@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

Proof of payment means, as applicable, a copy of the receipt or confirmation of payment method, 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.

4.7. If Respondent fails to timely pay any portion of the Assessed Penalty, the entire unpaid balance of the Assessed Penalty shall become immediately due and owing.

4.8. Under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c), failure to take actions within the time specified in this Consent Agreement may subject Respondent to additional civil penalties for each day of continued noncompliance.

4.9. Respondent shall seek all existing funds to meet the requirements of this Consent Agreement. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligations to comply with RCRA, the applicable regulations thereunder, the Permit, or this Consent Agreement. Nothing in this Consent Agreement shall be interpreted to require obligations or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

4.10. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.11. Except as described in Paragraphs 4.8 and 4.9, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.12. Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in this Consent Agreement and to appeal the Final Order and/or to confer with the EPA Administrator under Section 6001(b)(2) of RCRA, 42 U.S.C. § 6961(b)(2), on any issue of law or fact set forth in this Consent Agreement and the Final Order.

4.13. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.14. Respondent consents to the issuance of any specified compliance or corrective action order, to any conditions specified in this consent agreement, and to any stated permit action.

4.15. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

9/22/26

FOR RESPONDENT:

WERNER.DANIEL.CHRI
STOPHER.1234265543

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WERNER.DANIEL.CHRISTOPHER.123426
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Date: 2026.09.22 17:35:36 -08'00'

COLONEL DANIEL C. WERNER, Commander,
Joint Base Elmendorf-Richardson and 673d Air Base Wing
United States Air Force

FOR COMPLAINANT:

EDWARD KOWALSKI

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KOWALSKI
Date: 2026.09.24 11:17:16 -07'00'

EDWARD J. KOWALSKI, Director
Enforcement & Compliance Assurance Division
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	DOCKET NO. RCRA-10-2026-0239
	)	
UNITED STATES AIR FORCE,	)	FINAL ORDER
	)	
Joint Base Elmendorf-Richardson,	)	
Alaska,	)	
	)	
Respondent.	)	

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under RCRA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of RCRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

IT IS SO ORDERED.

RICHARD
MEDNICK

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MEDNICK
Date: 2026.09.28 08:36:10
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Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: United States Air Force, Docket No.: RCRA-10-2026-0239**, was filed with the Regional Hearing Clerk and that a true and correct copy was served on the date specified below to the following addressees:

Shannon Rebersak
U.S. Environmental Protection Agency
Region 10, Mail Stop 11-C07
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101

Rebersak.shannon@epa.gov

Colonel Daniel C. Werner
Commander, Joint Base Elmendorf-Richardson and 673d Air Base Wing
United States Air Force
11735 Vandenberg Avenue
Joint Base Elmendorf-Richardson, Alaska 99506
Daniel.Werner@us.af.mil

SALEE
PORTER

Regional Hearing Clerk
EPA Region 10

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Date: 2026.09.28 09:24:52
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