BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN RE:	:	
United States Department of the Army,	:	
Respondent,	:	
	:	**Docket No. RCRA-03-2011-0115**
United States Army Garrison, Fort Belvoir Fort Belvoir, Virginia	:	
Facility.	:	

CONSENT AGREEMENT

Preliminary Statement

This Consent Agreement ("CA") is entered into by the Director of the Office of Enforcement, Compliance, and Environmental Justice, U.S. Environmental Protection Agency, Region III ("EPA" or "Complainant") and the U.S. Department of the Army ("Respondent"), pursuant to Sections 3008, 9006, and 9007 of the Resource Conservation and Recovery Act, as amended ("RCRA"), 42 U.S.C. §§ 6928, 6991e, and 6991f, Sections 113 and 118(a) of the Clean Air Act, as amended ("CAA"), 42 U.S.C. §§ 7413 and 7418(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3).

Regulatory Background

This CA and the accompanying Final Order (collectively "CAFO") resolve violations of RCRA, Subtitles C and I, 42 U.S.C. §§ 6921- 6939e and 6991-6991i, and regulations in the authorized Virginia hazardous waste and underground storage tank programs in connection with Respondent's facility located at the United States Army Garrison, Fort Belvoir, Fort Belvoir, Virginia. Virginia initially received final authorization for its hazardous waste regulations, the Virginia Hazardous Waste Management Regulations ("VaHWMR"), 9 VAC 20-60-12 *et seq.*, on December 4, 1984, effective December 18, 1984 (49 Fed. Reg. 47391). EPA reauthorized Virginia's regulatory program on June 14, 1993, effective August 13, 1993 (58 Fed. Reg. 32855); on July 31, 2000, effective September 29, 2000 (65 Fed. Reg. 46606), and on June 20, 2003,

effective June 20, 2003 (68 Fed. Reg. 36925). The VaHWMR incorporate, with certain exceptions, specific provisions of Title 40 of the 2001 Code of Federal Regulations by reference. *See* 9 VAC 20-60-18.

On September 28, 1998 (effective October 28, 1998) (63 Fed. Reg. 51528), pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the Commonwealth of Virginia was granted final authorization by EPA to administer a state underground storage tank management program *in lieu* of the Federal underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991i. The provisions of the Commonwealth of Virginia underground storage tank management program, through this final authorization, have become requirements of Subtitle I of RCRA and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The provisions of the Commonwealth of Virginia's authorized underground storage tank program are cited as Underground Storage Tanks: Technical Standards and Corrective Action Requirements ("VA UST Regulations"), 9 VAC 25-580-10 *et seq.*

Respondent was previously notified regarding the RCRA allegations recited herein under cover letter dated March 5, 2010. In accordance with Sections 3008(a)(2) and 9006(a)(2) of RCRA, 42 U.S.C. §§ 6928(a)(2) and 6991e(a)(2), EPA has notified the Commonwealth of Virginia of EPA's intent to enter into a CAFO with Respondent resolving the RCRA violations set forth herein.

This CAFO also resolves violations of the CAA, 42 U.S.C. §§ 7401, et seq. EPA is authorized by Section 113 of the CAA, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements. These include requirements promulgated by EPA and those contained in federally enforceable state implementation plans ("SIP") or permits. The Virginia SIP, approved by EPA at 40 C.F.R. Part 52, Subpart VV, provides for the issuance of installation and non-attainment operating permits for stationary sources of air pollution. Moreover, Respondent is also subject to the requirements set forth at 40 C.F.R. Part 82, Subpart F, regarding the regulation of equipment containing refrigerants which are ozone depleting substances.

Respondent was previously notified regarding the CAA allegations recited herein under cover letter dated March 5, 2010. EPA has notified the Commonwealth of Virginia of EPA's intent to enter into a CAFO with Respondent to resolve the CAA violations set forth herein.

General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.

2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 1, above.

3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the attached Final Order, or the enforcement of the CAFO.

4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order, or any right to confer with the EPA Administrator pursuant to RCRA Section 6001(b)(2), 42 U.S.C. § 6961(b)(2).

5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.

6. Respondent shall bear its own costs and attorney's fees.

7. Respondent certifies to EPA by its signature herein that it is presently in compliance with the provisions of RCRA and CAA referenced herein.

8. The provisions of this CAFO shall be binding upon Complainant and Respondent, its officers, directors, employees, successors, and assigns.

9. This CAFO 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 CAFO constitute a waiver, suspension or modification of the requirements of RCRA, Subtitle C, 42 U.S. C. §§ 6921- 6939e, RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991i, the CAA, or any regulations promulgated thereunder.

EPA's Findings of Fact and Conclusions of Law

10. In accordance with the Consolidated Rules at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the findings of fact and conclusions of law which follow.

11. Respondent is the owner and operator of the United States Army Garrison, Fort Belvoir, 9820 Flagler Road, Fort Belvoir, Virginia 22060 (the "Facility").

12. EPA conducted an inspection of Respondent's Facility on June 11-14, 2007 ("EPA Inspection").

COUNT I (RCRA SUBTITLE C-OPERATING WITHOUT A PERMIT)

13. Paragraphs 1-12 of this CAFO are incorporated by reference as though fully set forth herein.

14. Respondent is and has been at all times relevant to this CAFO the "owner" and "operator" of a "facility," as those terms are defined by 9 VAC 20-60-260, which, with exceptions not relevant to this term, incorporates by reference 40 C.F.R. § 260.10.

15. Respondent is a department, agency and/or instrumentality of the United States and is a "person" as defined by Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 9 VAC 20-60-260, which, with exceptions not relevant to this term, incorporates by reference 40 C.F.R. § 260.10.

16. Respondent is and, at all times relevant to this CAFO, has been a "generator" of, and has engaged in the "storage" in "containers" of materials that are "solid wastes" and "hazardous waste" at the Facility, as those terms are defined in 9 VAC 20-60-260 and 261, which incorporate by reference 40 C.F.R. §§ 260.10 and 261.2 and .3, including the hazardous waste referred to herein.

17. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 9 VAC 20-60-270 (which incorporates by reference 40 C.F.R. § 270.1(b)) provide, in pertinent part, that a person may not operate a hazardous waste storage, treatment or disposal facility unless such person has first obtained a permit for such facility or has qualified for interim status.

18. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(a), provides that a generator may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status provided that, *inter alia*:

    a. The waste is placed in containers and the generator complies with 40 C.F.R. § 265, Subparts I, AA, BB and CC;

    b. The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

    c. While being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste;" and

    d. The generator complies with the requirements for owners or operators set forth in 40 C.F.R. Part 265, Subparts B, C, and D, § 265.16, and § 268.7(a)(5).

19. 40 C.F.R. § 262.34(b) provides that a generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 C.F.R. Parts 264 and 265 and the permit requirements of 40 C.F.R. Part 270 unless he has been granted an extension to the 90-day period.

Waste Determination

20. 9 VAC 20-60-262, which incorporates by reference the requirements of 40 C.F.R. § 262.11, requires that a person who generates a solid waste determine if the waste is a hazardous waste using one of the methods therein described.

21. At the time of the EPA Inspection, the EPA inspector observed the following:

a. The Facility did not properly determine if waste from a large used oil tank in Building 1420 was hazardous waste.
b. The Facility did not properly determine if containers of used paint stripper located in Building 1420, which also contained used paint, were hazardous waste.
c. The Facility did not properly determine if a one quart container observed in a waste container used to accumulate punctured aerosol cans in the CMRL area outside of Room #1105 was hazardous waste.
d. The Facility did not properly determine if an unpunctured aerosol can observed in a fifty-five (55) gallon drum at the Davison Airfield, Building 3231, was hazardous waste.

22. Respondent violated 9 VAC 20-60-262, which incorporates by reference the requirements of 40 C.F.R. § 262.11, by failing to determine if the solid wastes described in Paragraph 21, above, were hazardous wastes.

Weekly Inspection

23. 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), requires (through the incorporation by reference of 40 C.F.R. § 265.174) that areas where containers are stored must be inspected at least weekly.

24. At the time of the EPA Inspection, the Facility could not produce documentation that the storage area in Building 1495 had been inspected during the second week of May in 2007.

25. Respondent violated 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34(a)(1)(i), by failing to inspect the storage area in Building 1495 during the second week of May 2007.

Satellite Accumulation

26. 9 VAC 20-60-262, which incorporates by reference the requirements of 40 C.F.R. § 262.34(c)(1), provides, in relevant part, that a generator may accumulate as much as 55 gallons of hazardous waste at or near any point of generation where waste initially

accumulate, which is under the control of the operator of the process generating the waste without a permit or interim status provided certain condition are met.

27. At the time of the EPA Inspection, the EPA inspector observed that hazardous wastes from two different buildings (Buildings 3140 and 3145) were placed in a drum located in a plastic containment structure outside of and adjacent to Building 3140.

28. Respondent violated 9 VAC 20-60-262, which incorporates by reference the requirements of 40 C.F.R. § 262.34(c)(1), by placing waste generated from a location which was not at a not at or near the point of generation in the accumulation area outside of and adjacent to Building 3140.

Open Containers

29. 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.173(a), provides that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

30. At the time of the EPA Inspection, the EPA inspector observed a drum at Building 1696 in the Marina Area that had its bung open. The drum contained a small amount of waste gasoline, a hazardous waste.

31. Respondent violated 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.173(a), by failing to keep the drum at Building 1696 in the Marina Area closed during storage, even though it was not necessary to add or remove waste at the time of the EPA Inspection.

32. Because Respondent did not properly characterize its waste, as described in Paragraphs 20-22, above, did not comply with the requirements concerning weekly inspections, as described in Paragraphs 23-25, above, did not comply with the satellite accumulation requirements, as described in Paragraphs 26-28, above, and did not keep its containers closed during storage, except when necessary to add or remove waste from such containers, as described in Paragraphs 29-31, above, Respondent failed to satisfy the conditions set forth at 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.34, for a generator to qualify for an exemption from the permit and/or interim status requirements of RCRA Section 3005(a) and (e), 42 U.S.C. § 6925(a) and (e), and 9 VAC 20-60-270 for the hazardous waste management activities described in Paragraphs 20-31, above.

33. Respondent does not have, and at the time of the violations alleged herein, did not have, a permit or interim status to store hazardous waste at the Facility as required by 9 VAC 20-60-270, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e).

34. Because of the activities alleged in Paragraphs 20-31, above, Respondent violated 9 VAC 20-60-270, which incorporates by reference 40 C.F.R. § 270.1(b), by operating a hazardous waste storage facility without a permit or interim status.

COUNT II (RCRA—WASTE DETERMINATION)

35. Paragraphs 1 through 34 of the CAFO are incorporated by reference as though fully set forth herein.

36. 9 VAC 20-60-262, which incorporates by reference the requirements of 40 C.F.R. § 262.11, requires that a person who generates a solid waste determine if the waste is a hazardous waste using one of the methods therein described.

37. At the time of the EPA Inspection, the EPA inspector observed the following:

a. The Facility did not properly determine if waste from a large used oil tank in Building 1420 was hazardous waste.
b. The Facility did not properly determine if containers of used paint stripper located in Building 1420, which also contained used paint, were hazardous waste.
c. The Facility did not properly determine if a one-quart container observed in a waste container used to accumulate punctured aerosol cans in the CMRL area outside of Room #1105 was hazardous waste.
d. The Facility did not properly determine if an unpunctured aerosol can observed in a fifty-five (55) gallon drum at the Davison Airfield, Building 3231, was hazardous waste.

38. Respondent violated 9 VAC 20-60-262, which incorporates by reference the requirements of 40 C.F.R. § 262.11, by failing to determine if the solid wastes described in Paragraph 37, above, were hazardous wastes.

COUNT III (RCRA—WEEKLY INSPECTION)

39. Paragraphs 1 through 38 of the CAFO are incorporated by reference as though fully set forth herein.

40. 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.174, requires that areas where containers are stored must be inspected at least weekly.

41. At the time of the EPA Inspection, the Facility could not produce documentation that the storage area in Building 1495 had been inspected during the second week of May in 2007.

42. Respondent violated 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.174, by failing to inspect the storage area in Building 1495 during the second week of May 2007.

COUNT IV (RCRA—OPEN CONTAINER)

43. Paragraphs 1 through 42 of the CAFO are incorporated by reference as though fully set forth herein.

44. 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.173(a), provides that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

45. At the time of the EPA Inspection, the EPA inspector observed a drum at Building 1696 in the Marina Area that had its bung open. The drum contained a small amount of waste gasoline, a hazardous waste.

46. At the time of the EPA Inspection, Respondent violated 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.173(a), by failing to keep the drum at Building 1696 in the Marina Area closed during storage, even though it was not necessary to add or remove waste.

COUNT V (RCRA—PERMIT VIOLATION)

47. Paragraphs 1 through 46 of the CAFO are incorporated by reference as though fully set forth herein.

48. The Facility was issued a hazardous waste storage permit by the Virginia Department of Environmental Quality which became effective on October 23, 2004 and will remain in effect until October 23, 2014.

49. Section III.A.1.(3) of the hazardous waste storage permit requires the Facility to clearly mark the date upon which each period of accumulation began on each container that is located in the permitted area.

50. One container in Cell #7 of Building 1490, the Facility's RCRA-permitted storage area, contained flammable waste corrosive liquid. At the time of the EPA Inspection, the container was marked with a hazardous waste label, but did not have an accumulation start date.

51. The Facility violated Section III.A.1.(3) of its hazardous waste storage permit by failing to mark the accumulation start date on a container of flammable waste corrosive liquid in Cell #7 of Building 1490.

COUNT VI (RCRA SUBTITLE I-RELEASE DETECTION FOR PIPING)

52. Paragraphs 1 through 51 of the CAFO are incorporated by reference as though fully set forth herein.

53. Respondent is a department, agency and/or instrumentality of the United States and is a "person" as defined by Section 9001(6) of RCRA, 42 U.S.C. § 6991(6).

54. Respondent is, and at the time of the violations alleged in this CAFO, was the "owner" and/or "operator" of "underground storage tanks" ("USTs" and "UST systems"), as defined in Section 9001(1), (3), and (4) of RCRA, 42 U.S.C. § 6991(1), (3), and (4), and 9 VAC § 25-580-10. At the time of the EPA Inspection, Respondent was the owner and/or operator of USTs in Buildings 1133, 1197, and 2304.

55. Respondent's USTs referenced in Paragraph 54, above, are and were at all times relevant hereto "petroleum UST systems" used to store "regulated substances" as defined in 9 VAC 25-580-10, and Section 9001(2) of RCRA, 42 U.S.C. § 6991(2).

56. Pursuant to 9 VAC 25-580-130.A. and C., owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein.

57. 9 VAC 25-580-140.2 provides, in pertinent part, that underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one of the following requirements:

> a. Pressurized piping. Underground piping that conveys regulated substances under pressure must:
>
> (1) Be equipped with an automatic line leak detector conducted in accordance with subdivision 1 of 9 VAC 25-580-170; and
>
> (2) Have an annual line tightness test conducted in accordance with subdivision 2 of 9 VAC 25-580-170 or have monthly monitoring conducted in accordance with subdivision 3 of 9 VAC 25-580-170.
>
> b. Suction piping. Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least every three years and in accordance with subdivision 2 of 9 VAC 25-580-170, or use a monthly monitoring method conducted in accordance with subdivision 3 of 9 VAC 25-580-170. No release detection is required for suction piping that is designed and constructed to meet the following standards:
>
> (1) The below-grade piping operates at less than atmospheric pressure;
>
> (2) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

(3) Only one check valve is included in each suction line;
(4) The check valve is located directly below and as close as practical to the suction pump; and
(5) A method is provided that allows compliance with subdivisions 2 b (2) through (4) of this section to be readily determined.

58. At the time of the EPA Inspection, the piping associated with Tanks 1133F and 1133E at Building 1133 was suction piping.

59. At the time of the EPA Inspection, the piping associated with Tanks 1197I and 1197G at Building 1197 was pressurized piping.

60. At the time of the EPA Inspection, the piping associated with Tanks 2304D, 2304A, and 2304B at Building 2304 was pressurized piping.

61. At the time of the EPA Inspection, Respondent was using interstitial monitoring as its leak detection method for the piping associated with the tanks described in Paragraphs 58 – 60, above. At the time of the EPA Inspection, Respondent was not using any other method of leak detection for the piping associated with these tanks.

62. With respect to the piping associated with the tanks described in Paragraphs 58-60, above, any leak from the interstitial space between piping walls was designed to flow to a sump. Each of these sumps had a sump sensor to detect a leak from piping. At the time of the EPA Inspection, each of the sump sensors associated with these tanks was improperly placed in the sumps as they were placed either too high in relation to the bottom of the sump or not in a vertical position. Moreover, with respect to Tank 2304D at Building 2304, the line leak detector for the piping was not tested on an annual basis.

63. At the time of the EPA Inspection, Respondent was not properly conducting interstitial monitoring for the piping associated with the tanks described in Paragraphs 58-60, above.

64. Respondent violated 9 VAC 25-580-140.2 (40 C.F.R. § 280.41) by failing to properly perform release detection for the piping associated with the tanks described in Paragraphs 58-60, above, at the Facility.

COUNT VII (RCRA SUBTITLE I—CORROSION PROTECTION)

65. Paragraphs 1 through 64 of the CAFO are incorporated by reference as though fully set forth herein.

66. 9 VAC 25-580-90 requires corrosion protection for those components of tanks and piping that routinely contain regulated substances and are in contact with the ground.

67. At the time of the EPA Inspection, piping associated with the USTs at Building 1133 was in contact with the ground in at least two locations.

68. Those portions of the pipe which were in contact with the ground did not have corrosion protection.

69. Respondent violated 9 VAC 25-580-90 by not having corrosion protection for those portions of piping associated with USTs at Building 1133 which were in contact with the ground.

COUNT VIII (CAA—TITLE V PERMIT—VETERINARY CLINIC INCINERATOR)

70. Paragraphs 1 through 69 of the CAFO are incorporated by reference as though fully set forth herein.

71. EPA is authorized by Section 113 of the CAA, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements. These include requirements promulgated by EPA and those contained in federally enforceable state implementation plans or permits.

72. Title V of the Act, and implementing regulations at 40 C.F.R. Part 70, require that states develop and submit to EPA operating permit programs, and that EPA act to approve or disapprove each program.

73. Provisions included by state permitting authorities in Title V permits issued under a program approved by EPA are enforceable by EPA unless denoted in the permit as a state or local requirement that is not federally enforceable.

74. EPA fully approved the Title V operating permit programs for the Commonwealth of Virginia effective on November 30, 2001. 40 C.F.R. Part 70, Appendix A.

75. The Facility received a Title V permit effective on March 21, 2003, with an expiration date of March 21, 2008. The Facility's Title V permit number is NVR070550. This permit was in effect at the time of the EPA Inspection.

76. Condition XI.A.3 of the Facility's Title V operating permit provided that the minimum temperatures in the primary and secondary combustion chambers of the Veterinary Clinic Incinerator ("VCI") were required to be 1200° F and 1600° F, respectively.

77. The Facility had at least one documented occasion on June 19, 2006, in which it did not operate the VCI in accordance with the Title V permit temperature limits.

78. The Facility violated its Title V operating permit with respect to the minimum

temperatures in the primary and secondary combustion chambers at the VCI on at least one occasion.

COUNT IX (CAA—TITLE V PERMIT—EMPLOYEE TRAINING)

79. Paragraphs 1 through 78 of the CAFO are incorporated by reference as though fully set forth herein.

80. Section III of the Facility's Title V permit pertains to the Central Heating Plant. Section III.B.3. of the Facility's Title V permit provides that, "The permittee shall maintain records of the required training including a statement of time, place and nature of training provided."

81. At the time of the EPA Inspection, the Facility's training records for the year 2006 did not note the place and time of the training pertaining to the Central Heating Plant.

82. Section VII of the Facility's Title V permit pertains to emergency generators. Section VII.B.3. of the Facility's Title V permit provides that, "The permittee shall maintain records of the required training including a statement of time, place and nature of training provided."

83. At the time of the EPA Inspection, the Facility's training records with respect to the emergency generators were not available.

84. Section XII of the Facility's Title V permit pertains to the Defense CEETA Incinerator. Section XII.B.2. of the Facility's Title V permit provides that, "U.S. Army, Fort Belvoir shall maintain records of the required training and certification. Certification of training shall consist of a statement of time, place and nature of training provided."

85. At the time of the EPA Inspection, the Facility's training records with respect to the Defense CEETA Incinerator were not available.

86. The Facility did not comply with the recordkeeping requirements set forth in its Title V permit pertaining to training.

COUNT X (CAA—REFRIGERANT REGULATIONS)

87. The allegations contained in Paragraphs 1 through 86 of this CAFO are incorporated by reference herein as though fully set forth at length.

88. Under Section 113(a)(3) of the CAA, the Administrator of EPA has the authority to issue orders requiring persons to comply with the National Recycling and Emission Reduction Program for stratospheric ozone-depleting refrigerants promulgated under Section 608(a)

of the CAA, 42 U.S.C. § 7671g(a).

89. 40 C.F.R. § 82.166(k) requires that facilities with appliances containing greater than fifty pounds of a Class I or Class II ozone depleting refrigerants must create and maintain servicing records documenting the date and type of service, as well as the quantity of refrigerant added to such appliances.

90. At the time of the EPA Inspection, the Facility did not maintain adequate records regarding its servicing of appliances containing greater than fifty pounds of a Class I or Class II ozone depleting refrigerants.

91. The Facility violated 40 C.F.R. § 82.166(k) by failing to create or maintain servicing records documenting the date and type of service, as well as the quantity of refrigerant added with respect to its appliances containing greater than fifty pounds of a Class I or Class II ozone depleting refrigerants.

CIVIL PENALTY

92. Respondent consents to the assessment of a civil penalty of **THIRTY THREE THOUSAND AND SEVENTY SIX DOLLARS ($33,076.00)** and agrees to perform a Supplemental Environmental Project (SEP) in full satisfaction of all claims for civil penalties for the violations alleged in the above alleged ten counts of this CAFO. Respondent must pay the civil penalty no later than **THIRTY (30)** calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent. In addition to the factors recited in Paragraphs 93 – 95, below, Respondent's agreement to perform the SEP was considered in reaching this civil penalty amount.

93. For the violations alleged in Counts I - V, EPA considered a number of factors including, but not limited to, the statutory factors set forth in Section 3008(a)(3) of the RCRA, 42 U.S.C. § 6928(a)(3), *i.e.*, the seriousness of Respondent's violations and the good faith efforts by Respondent to comply with the applicable requirements of the RCRA, and the *RCRA Civil Penalty Policy* (2003). EPA has also considered the *Adjustments of Civil Penalties for Inflation and Implementing the Debt Collection Improvement Act of 1996* ("DCIA"), as set forth in 40 C.F.R. Part 19, and the December 29, 2008 memorandum by EPA Assistant Administrator Granta Y. Nakayama entitled, *Amendments to EPA's Civil Penalty Policies to Implement the 2008 Civil Monetary Penalty Inflation Adjustment Rule (Effective January 12, 2009)* ("2008 Nakayama Memorandum"), which specify that for violations that occurred after January 30, 1997, statutory penalties and penalties under the RCRA Civil Penalty Policy for, *inter alia*, RCRA Subtitle C violations, were increased 10% above the maximum amount to account for inflation and, statutory penalties for, *inter alia*, RCRA Subtitle C violations that occurred after March 15, 2004 through January 12, 2009, were increased by and an additional 17.23% above the maximum amount to account for inflation.

94. For the violation alleged in Counts VI - VII, EPA considered a number of factors, including, but not limited to: the statutory factors of the seriousness of Respondent's violations and any good faith efforts by Respondent to comply with all applicable requirements as provided in RCRA Section 9006(d), 42 U.S.C. § 6991e(d), and EPA's *Penalty Guidance for Violations of UST Regulations* ("UST Guidance") dated November 4, 1990. EPA has also considered the DCIA, as set forth in 40 C.F.R. Part 19, and the 2008 Nakayama Memorandum which specify that for violations that occurred after January 30, 1997, statutory penalties and penalties under the UST Guidance were increased 10% above the maximum amount to account for inflation and, statutory penalties for violations that occurred after March 15, 2004 through January 12, 2009, were increased by an additional 17.23% above the maximum amount to account for inflation.

95. For the violations alleged in Counts VIII - X, EPA considered a number of factors, including, but not limited to, the penalty assessment criteria in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), including the seriousness of Respondent's violations and Respondent's good faith efforts to comply, and the *Clean Air Act Stationary Source Civil Penalty Policy* (1991). EPA also considered the DCIA, as set forth in 40 C.F.R. Part 19, and the 2008 Nakayama Memorandum, which specify that for violations that occurred after January 30, 1997, statutory penalties and penalties under the Clean Air Act Stationary Source Civil Penalty Policy, were increased 10% above the statutory maximum amount to account for inflation and, statutory penalties for violations that occurred after March 15, 2004 through January 12, 2009, were increased by an additional 17.23% above the maximum amount to account for inflation.

96. Payment of the civil penalty amount required under the terms of Paragraph 92, above, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

a. All payments by Respondent shall reference its name and address and the Docket Number of this action (Docket No. RCRA-03-2011-0115);

b. All checks shall be made payable to "**United States Treasury**;"

c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The Customer Service contact for the above method of payment is Bryson Lehman at 513-487-2123.

d. All payments made by check and sent by overnight delivery service shall be addressed and sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The Customer Service number for the above method of payment is 314-418-1028.

e. All electronic wire transfer payments shall be directed to:

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

f. All payments through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX/Cashlink ACH Receiver
ABA = 051036706
Transaction Code 22 - checking
Account 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury Facility:

5700 Rivertech Court
Riverdale, MD 20737

The Customer Service contact for the above method of payment is Jesse White at 301-887-6548, or REX at 1-866-234-5681.

g. There is an on-line payment option available through the Department of the Treasury. This payment option can be accessed from: WWW.PAY.GOV. Enter sfo 1.1 in the search field and complete all required fields in the form.

h. At the same time that any payment is made, Respondent shall mail copies of any corresponding check, or written notification confirming any electronic wire transfer, to:

Ms. Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and to

Daniel L. Isales (3RC60)
Environmental Science Center
U.S. Environmental Protection Agency, Region III
701 Mapes Road
Fort Meade, MD 20755-5350

97. 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 Paragraph 92 above, shall be resolved by negotiation between the EPA and Respondent or by referral to the General Accounting Office.

SUPPLEMENTAL ENVIRONMENTAL PROJECT (SEP)

98. Respondent shall complete the SEP described in the Scope of Work, which is attached hereto as Attachment A and incorporated herein by reference, which the parties agree is intended to secure significant environmental benefits or public health protection and improvements. The SEP, which requires replacement of six refrigeration units at the Facility with refrigeration units that use non-ozone depleting refrigerants, shall be completed in accordance with the schedule set forth in the Scope of Work.

99. The total expenditure for the SEP shall be not less than the amount specified in the Scope of Work. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

100. Respondent hereby certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by any other

agreement, grant or as injunctive relief in this or any other case. Respondent hereby certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the SEP by any Executive Order. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

101. **Reporting**

a. Within five calendar days of completion of the SEP, Respondent will inform EPA in writing of such completion.

b. **SEP Completion Report.** Respondent shall submit a SEP Completion Report to EPA for the SEP in accordance with the Scope of Work and the schedule set forth therein. Pursuant to the Scope of Work, for the purpose of determining when the SEP Completion Report is due, the SEP shall be completed within eighteen months after the effective date of this CAFO. The SEP Completion Report shall be due to EPA within sixty (60) calendar days after completion of the SEP. The SEP Completion Report shall contain the following information:

(i) A detailed description of the SEP as implemented;

(ii) A description of any operating problems encountered and the solutions thereto;

(iii) Itemized costs for the entire project; and

(iv) Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO.

c. Respondent agrees that failure to submit the SEP Completion Report shall be deemed a violation of this CAFO and Respondent shall become liable for additional civil penalties pursuant to Paragraph 103, below.

d. Respondent shall submit all notices and reports pertaining to the SEP required by this Consent Agreement and Final Order by overnight mail to:

Theresa Gallagher (3EC00)
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029

and

Daniel L. Isales
Environmental Science Center (3RC60)

U.S. Environmental Protection Agency
701 Mapes Road
Fort Meade, MD 20755-5350

e. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such. Eligible SEP costs include the costs of purchasing the equipment, but do not include overhead, additional employee time and salary expended in purchasing the equipment, administrative expenses, and legal fees. For purposes of this Paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Cancelled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

f. In the SEP Completion Report submitted to EPA pursuant to this CAFO, Respondent shall sign and certify, by a principal executive officer as defined at 40 C.F.R. § 270.11(a)(3), under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

> I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

102. EPA Acceptance of SEP Completion Report

a. After receipt of the SEP Completion Report described in Paragraph 101, above, EPA will notify the Respondent, in writing, regarding: (i) any deficiencies in the SEP Completion Report itself along with a grant of an additional thirty (30) calendar days for Respondent to correct any deficiencies; or (ii) indicate that EPA concludes that the project has been completed in accordance with the CAFO; or (iii) determine that the project has not been completed in accordance with the CAFO and seek additional civil penalties in accordance with Paragraph 103, below.

b. If EPA elects to exercise option (i) above, i.e., if the SEP Completion Report is determined to be deficient, but EPA has not yet made a final determination about

the adequacy of the SEP completion itself, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency given pursuant to this Paragraph within ten (10) calendar days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) calendar days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Completion Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent. In the event the SEP is not completed as contemplated herein, as determined by EPA, additional civil penalties shall be due and payable by Respondent to EPA in accordance with Paragraph 103, below.

103. Additional Civil Penalties

a. In the event that Respondent fails to comply with any terms or provision of this CAFO relating to the performance of the SEP and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in the Scope of Work, Respondent shall be liable for additional civil penalties according to the provisions set forth below:

(i) Except as provided in subparagraph (ii) immediately below, if the SEP has not been completed in accordance this CAFO, Respondent shall pay an additional civil penalty to the United States of $102,000.00.

(ii) If the SEP is not completed in accordance with the CAFO, but EPA determines that Respondent: a) made good faith and timely efforts to complete the project; and b) certifies, with supporting documentation, that at least ninety (90) percent of the amount of money which was required to be spent for that SEP was actually expended on the SEP, Respondent shall not be liable for any additional civil penalty.

(iii) If the SEP is completed in accordance with the CAFO, but the Respondent spent less than ninety (90) percent of the amount required to be spent for that SEP, Respondent shall pay an additional civil penalty to the United States of $20,000.00.

(iv) If the SEP is completed in accordance with the CAFO and the Respondent spent at least ninety (90) percent of the amount of money required to be spent for the SEP, Respondent shall not be liable for any additional civil penalty.

(v) For failure to submit the SEP Completion Report required by Paragraph 101, above, Respondent shall pay an additional civil penalty in the

following amounts for each day after the date that the report is due until the report is submitted: for calendar days one (1) through ten (10), an additional penalty of $250, and for every calendar day thereafter a penalty of $500.

b. The determination of whether the SEP has been completed in accordance with the CAFO and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.

c. The additional civil penalty specified in subparagraph (v) above shall begin to accrue on the day after performance is due and shall continue to accrue through the final day of completion of the activity.

d. Respondent shall pay any additional civil penalties not more than thirty (30) calendar days after receipt of a written demand for such penalties by EPA. The method of payment shall be in accordance with the provisions of Paragraph 96, above. Payment of any debt which arises as a result of late payment of an additional civil penalty shall be resolved in accordance with Paragraph 97.

e. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this CAFO or, excepting matters with respect to which Respondent is released hereunder, of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.

104. Any public statement, oral or written, in film or other media, made by Respondent making any reference to the SEP or its resultant environmental benefits in part or in total shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of environmental statutes and regulations."

105. This CAFO 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 determinations or, any issue related to any federal, state, or local permit, nor shall it be construed to constitute EPA approval of the equipment or technology installed by Respondent in connection with the SEP undertaken pursuant to this CAFO.

106. Force Majeure

a. If any event occurs which causes or may cause delays in the completion of the SEP as required under this CAFO, Respondent shall notify EPA in writing not more than fifteen (15) calendar days after the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the

measures taken and to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. The Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this Paragraph shall render this Paragraph void and of no effect as to the particular incident involved and constitute a waiver of the Respondent's right to request an extension of its obligation under this CAFO based on such incident.

b. If the Respondent and EPA agree that the delay or anticipated delay in compliance with the CAFO has been or will be caused by circumstances entirely beyond the control of Respondent, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, Respondent and EPA shall stipulate, in writing, to such extension of time.

c. In the event that EPA does not agree that a delay in achieving compliance with the requirements of the CAFO has been or will be caused by circumstances beyond the control of the Respondent, EPA will notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused.

d. The burden of proving that any delay is caused by circumstances beyond the control of the Respondent shall rest with the Respondent. Increased costs or expenses associated with the implementations of actions called for by this CAFO shall not, in any event, be a basis for change in this CAFO or extensions of time under section (b) of this Paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

EFFECT OF SETTLEMENT

107. Payment of the penalty specified in Paragraph 92, above, in the manner set forth in Paragraph 96, above, and compliance with all other terms of this CAFO shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have under RCRA Subtitle C, RCRA Subtitle I, and the CAA for the specific violations alleged in Counts I - X, above. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

RESERVATION OF RIGHTS

108. This CAFO resolves only the civil claims for monetary penalties for the specific violations alleged in the CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, 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. Further, EPA reserves any rights and remedies available to it under

RCRA, the CAA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk. Respondent reserves all available rights and defenses it may have to defend itself in any such action.

FULL AND FINAL SATISFACTION

109. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Sections 3008 and 9006 of RCRA, 42 U.S.C. §§ 6928 and 6991e, and Section 113 of the CAA, 42 U.S.C. § 7413, for the specific violations alleged in this CAFO. This CAFO constitutes the entire agreement and understanding of the parties regarding settlement of all claims pertaining to 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 CAFO.

ANTIDEFICIENCY ACT

110. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligation to comply with RCRA and the CAA, the applicable regulations thereunder, or with this CAFO. Nothing in this CAFO shall be interpreted to require obligation or payment of funds in violation of the Antideficiency Act, 31 U.S.C. § 1341.

AUTHORITY TO BIND THE PARTIES

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

EFFECTIVE DATE

112. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

For Respondent:

5 JUL 11
Date

The United States Department of the Army

JOHN J STRYCULA
COL, US ARMY

For Complainant:

U.S. Environmental Protection Agency,
Region III

7/22/11
Date

Daniel L. Isales
Assistant Regional Counsel
U.S. EPA - Region III

Accordingly, I hereby recommend that the Regional Administrator or his designee, the Regional Judicial Officer, issue the Final Order attached hereto.

8/4/11
Date

Samantha P. Beers, Director
Office of Enforcement, Compliance, and
Environmental Justice
U.S. EPA - Region III

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN RE:	:	
	:	
	:	
United States Department of the Army,	:	
	:	
Respondent,	:	
	:	**Docket No. RCRA-03-2011-0115**
United States Army Garrison, Fort Belvoir	:	
Fort Belvoir, Virginia	:	
	:	
Facility.	:	

ATTACHMENT A—SCOPE OF WORK

I. PURPOSE

Consistent with and as provided in the May 1, 1998 "Final Supplemental Environmental Projects Policy," the Supplemental Environmental Project ("SEP") described herein is an environmentally beneficial project which Respondent has agreed to undertake in settlement of the above-captioned enforcement action, as set forth in the Consent Agreement and Final Order ("CAFO"), but which Respondent has stated it is not otherwise legally required to perform.

II. BUSINESS CONFIDENTIALITY

Pursuant to 40 C.F.R. § 2.203, Respondent may submit a claim of business confidentiality for any document or information submitted pursuant to this Scope of Work. Failure to make a business confidentiality claim at the time the document is submitted shall constitute a waiver of such claim. In the event that Respondent asserts a claim of business confidentiality with respect to the SEP Completion Report, Respondent will provide EPA with a redacted version of the report which does not contain any claimed business confidential information and which can be distributed to the public.

III. SEP PERFORMANCE STANDARDS

The purpose of this SEP is to replace six refrigeration units at the Fort Belvoir facility with refrigeration units that use non-ozone depleting refrigerants. Respondent shall purchase and install equipment to permanently replace the six refrigeration units listed below to utilize hydrofluorocarbon (HFC)-based refrigerant instead of the chlorofluorocarbon (CFC)-based

refrigerant used currently.

Building No.	Equipment Type/ Model number	Manufacturer
1416	Air cooled chiller/30GT045-610-KA	Carrier
701	Air cooled chiller/ACDR015A	Dunham Bush
702	Air cooled chiller/ACDR20A	Dunham Bush
1839	Air cooled chiller/YCAT180-46PA	York
612	Large direct expansion split system/38AE044510	Carrier
778	Large direct expansion split system/38AK024-500	Carrier

Respondent agrees to fully operate and maintain the refrigeration systems listed above and not to install systems that use CFC-based refrigerants. Respondent agrees that any CFC-based refrigerants recovered from the above-listed units will not be sold, but will be handled in accordance with Department of Defense policy.

V. COSTS

The cost for this SEP shall total no less than $310,000.00.

VI. TIME FOR PERFORMANCE

The SEP will be completed within eighteen (18) months from the effective date of the CAFO.

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN RE:	:	
	:	
	:	
	:	
United States Department of the Army,	:	
	:	
Respondent,	:	
	:	**Docket No. RCRA-03-2011-0115**
United States Army Garrison, Fort Belvoir	:	
Fort Belvoir, Virginia	:	
	:	
Facility.	:	

FINAL ORDER

Complainant, the Director of the Office of Enforcement, Compliance, and Environmental Justice, U.S. Environmental Protection Agency - Region III, and Respondent, the United States Department of the Army, 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 on the representations of the parties set forth in the Consent Agreement, I have determined that the penalty assessed herein is based upon a consideration of the factors set forth in Sections 3008(a) and 9006(c) of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6928(a) and 6991e(c), EPA's 2003 RCRA Civil Penalty Policy, EPA's November 1990 Penalty Guidance for Violations of UST Regulations, Section 113(e) of the Clean Air Act, 42 U.S.C. § 7413(e), EPA's Clean Air Act Stationary Source Civil Penalty Policy (1991), and the Consolidated Rules of Practice. **IT IS HEREBY ORDERED** that Respondent pay a penalty of **THIRTY THREE THOUSAND AND SEVENTY SIX DOLLARS ($33,076.00)** and comply with the terms and conditions of the Consent Agreement. Payment shall be made in the manner set forth in the foregoing Consent Agreement. Payment shall reference Respondent's name and address as well as the EPA Docket Number of this Final Order (Docket No. RCRA-03-2011-0115).

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

8/17/11
Date

Renée Sarajian
Regional Judicial Officer
U.S. Environmental Protection Agency, Region III

IN RE:

United Stated Department of the Army

Respondent;

United States Army Garrison, Fort Belvoir
Fort Belvoir, Virginia

Facility.

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Docket No. RCRA-03-2011-0115

CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent a true and correct copy of the Consent Agreement and Final Order to the following:

ORIGINAL AND ONE COPY FILED, VIA HAND DELIVERY

Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103

COPY SERVED, VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Office of the Staff Judge Advocate
ATTN: Karen S. Gillett
9990 Belvoir Drive
Fort Belvoir, VA 22060

Dated: August 24, 2011

Daniel L. Isales
Assistant Regional Counsel
U.S. EPA, Region III
Environmental Science Center
701 Mapes Road
Fort Meade, MD 20755-5350
(410) 305-3016